

June 1, 1970

## CONGRESSIONAL RECORD—Extensions of Remarks

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administration. True, he expressed outrage about the opinions he quoted from various newspaper editorials and columns. But he had a different purpose in assembling the journalistic chamber of horrors for the enlightenment of Texas Republicans willing to pay \$500 for dinner. He was justifying his own determination to be louder and more intemperate than the critics, so he can be "heard above the din" now shattering American political life.

Well, that is Agnew's right, and the nation's ear doctors will welcome the extra business. Editorialists and columnists who are of a mind to criticize will not be cowed.

While the press is well able to withstand the vice president's offensive, the never-to-be muzzled Agnew does pose some problems for a nation sated with florid rhetoric. The office of the vice presidency, always useless while the top man is in good health, is being degraded further as the incumbent finds nothing better to do than to quarrel with newspaper columnists. It may be necessary to create a separate job of vice president for verbal excess, a post Agnew could hold for life. The real vice president then would have time for more useful tasks, while waiting in patient dignity pending any necessity for him to assume the Presidency.

The more serious problem is that Agnew has the undoubted ability to arouse the tempers and fears of many who hear or read his statements. He helps some people to hate—without helping them to understand—the forces that are dividing the country. He contributes to worsening these divisions. And though he deeply resent the implications, this helps bring on the bloody confrontations that have rocked the country in recent weeks.

So amid the laughter that the vice president provokes whether on the speaker's platform or the tennis court, a few tears also should be shed.

ADDRESS BY MSGR. HUGH J.  
PHILLIPS

HON. J. GLENN BEALL, JR.  
OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 1, 1970

Mr. BEALL of Maryland. Mr. Speaker, Mount Saint Mary's College, located in Emmitsburg, Md., is one of our Nation's most distinguished institutions for higher education.

Recently a parents' day convocation was held on this campus, and a most significant address was delivered by the president of this college, Msgr. Hugh J. Phillips.

Monsignor Phillips' message is particularly applicable today and, I think, provides for young people the basis for a better understanding of the wonderful opportunities that exist for them in our country. I include herein the text of Monsignor Phillips' fine address:

ADDRESS BY MSGR. HUGH J. PHILLIPS

Let me extend to each of you my personal welcome and that of the entire college community, to our campus on this Parents Day. Parents Day is an occasion in which the Mount expresses its gratitude to the parents of our students and to the parents of prospective students for directing their sons to Mount Saint Mary's for their higher education. It is also another occasion for our staff and faculty to share with you and yours our care and concern for the intellectual, spiritual and social development of your sons. We

share in your pride in their accomplishments in these and other collegiate endeavors.

Presidents of colleges usually take advantage of a day like this to tell the older generation how bright their sons are—how the world is waiting for them to renew and transform society—in short that they are the hope of mankind. I would like to reverse that process. I would ask the members of the student body to take a good look at you, the older generation, as you walk around, on the campus enjoying your visit with us and I would like to re-introduce you to your sons as representatives of some of the most remarkable people ever to walk the earth. People they might want to thank on this day as well as graduation day. You are the people your sons already know—parents and grandparents. I think your sons, the younger generation, will agree that you are indeed a remarkable people.

Not long ago Bergen Evans, a radio performer and also a Northwestern University educator, got together some facts about the older generation—your parents and grandparents. Let me share some of these facts with you.

And you are members of the older generation—according to the standards of the younger generation if you are over 30 years of age.

You parents and grandparents—are the people who within five decades—1920-1970—have by your work increased the life expectancy of your children by approximately 50%—who while cutting the working day by a third, have more than doubled per capita output. You are the people who have given the younger generation a healthier world than you found. And because of this they need no longer have to fear epidemics of flu, typhus, diphtheria, smallpox, scarlet fever, measles and mumps that you knew in your youth. And the dreaded polio is no longer a medical factor, while TB is almost unheard of.

Let me remind your sons and their generation that you remarkable people lived through history's greatest depression and survived it without tearing the nation apart. Many of you know what it is to be poor, what it is to be hungry and cold. Almost daily you had to forego the use of the family car and use public transportation. Often your homes were not as warm as you might have wanted them to be because of the shortage of fuel and because of this, you were determined that it would not happen to your children, you were determined that they would have a better life, better food to eat, milk to drink, vitamins to nourish them, provide them with a warm home, better schools and greater opportunities to succeed than you had.

Because you gave your children the best, they are the tallest, healthiest, brightest and probably best generation to inhabit the land.

And because you were industrious your children will work fewer hours, learn more, have more leisure time, travel to more distant places, and have more of a chance to follow their life's ambition.

You, the older generation, are also the people who fought man's greatest war. You are the people who defeated the tyranny of Hitler in his attempt to conquer the world and, as he prophesied, "to rule it for a thousand years." Twelve million men of your generation fought in the deserts of Africa where the Nazis were, in Italy where the Nazis were in France where the Nazis were, in Belgium and Holland where the Nazis were and on the high seas where the Nazis were—and you didn't cry "Stop, you're going to get hurt!" because you knew that unless such aggression was successfully defeated America would either be a tiny, unsafe fortress in a Nazi world or a pilant tool of Nazi dictatorship, and who when it was all over

you had the vision and compassion and the enlightened generosity to spend \$16 billions of dollars to help your former enemies rebuild their homelands. The Soviets were invited to join but refused. And you are the people who had the sense to begin the United Nations. And it was your generation that created NATO as a collective shield against future aggression.

Your generation helped to defeat aggression against Greece, Turkey and South Korea and they are free nations today.

Your generation didn't find that the "system" stood in the way of doing these things. You used the "system" and made it work.

It was representatives of your generation, who through the highest court of the land, fought racial discrimination at every turn to begin a new era in civil rights.

It was representatives of your generation who in Congress passed the most far-reaching voting rights law.

Parents, it was your generation that built thousands of high schools, trained and hired tens of thousands of better teachers, and at the same time made higher education a very real possibility for millions of youngsters—where once it was only the dream of a wealthy few.

And you made a start—altho a late one—in healing the scars of the earth and in fighting pollution and the destruction of our natural environment. You set into motion new laws giving conservation new meaning, and setting aside land for yourselves and your children to enjoy for generations to come.

You also hold the dubious record for paying taxes—altho your children will probably exceed you in this.

It was your generation that successfully took man to the moon. It was also this same generation that radioed back to earth that they too had problems on the flight of Apollo 13, and, as the whole world was watching . . . very serious problems. But the courageous trio of Astronauts turned what appeared to be a tragic failure into a tremendous and beautiful triumph. Once again Americans proved their ability to cope with critical problems and proved again the American capacity for accomplishment under stress: *you can do it if you have to*. That was the primary accomplishment . . . and the triumph . . . of Apollo 13.

While you parents and your generation have done all these things, and more, you have had some failures. Your generation has not yet found an alternative for war nor for racial religious hatred. Perhaps the younger generation, members of our student body, will perfect the social mechanisms by which all men may follow their ambitions without the threat of force—so that the earth will no longer need police to enforce the laws, nor armies to prevent some from trespassing against others. But you, parents, and your generation—made more progress by the sweat of your brows than in any previous era, don't you forget it. And, if the younger generation can make as much progress in as many areas as you have, they should be able to solve a good many of the world's remaining ills.

It is your country too. You and your generation have fought for it, bled for it, dreamed for it, and we love it. It is time to reclaim it.

It is my hope, and I know the hope of you parents and your generation, that the younger generation finds the answers to many of the problems that still plague mankind.

But it won't be easy for you of the younger generation. And you won't do it by negative thoughts, nor by tearing down or belittling. You may and can do it by hard work, humility, hope, prayer, and above all—faith in God and in mankind.

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CONGRESSIONAL RECORD—Extensions of Remarks

June 1, 1970

**BEHIND ENEMY LINES: A  
REPORTER'S STORY**  
*William*  
**HON. MARTHA W. GRIFFITHS**  
**OF MICHIGAN**  
**IN THE HOUSE OF REPRESENTATIVES**  
**Monday, June 1, 1970**

Mrs. GRIFFITHS, Mr. Speaker, Robert S. Boyd is one of the most competent reporters in the business. He heads the Washington News Bureau of the Knight newspapers and recently has been in North Vietnam. I am sure that all of you will be interested in his series on the war, which appear in the Detroit Free Press:

**BEHIND ENEMY LINES: A REPORTER'S STORY**  
(By Robert S. Boyd)

Just about sundown on April 24, a potbellied, 25-year-old Boeing 807, dodging thunderheads high over the Indochinese peninsula, crossed the invisible line between Laos and North Vietnam.

Peering down at the jungled mountain ridges, I could not tell exactly when we had passed the "Bamboo Curtain" into enemy territory.

But I knew I had embarked on the most fascinating and challenging reporting assignment in my 17 years as a newspaperman. In the next two weeks, I was going to try to see and learn and understand as much as I could about this stubborn, remote little country that had fought the United States to a standstill.

Only three other American journalists and two television correspondents have made it to North Vietnam since full-scale war began five years ago.

I was aware that Hanoi permitted all of us—the Associated Press, the New York Times, CBS, the Knight Newspapers—to visit North Vietnam in the belief that these reputable organizations would explain its side of the story in the United States.

I realized there were many limitations on what even an experienced reporter could learn in a two-week guided tour through a strange, tightly controlled land.

I knew all this before I left Washington and was determined not to be swept off my feet by a communist hard-sell. I had read every word my predecessors wrote, and was thoroughly briefed by Nixon administration officials—at the State Department, in Paris and in Laos.

I had advised the White House of my destination, and had my passport especially validated for travel to North Vietnam—one of the handful of countries on the State Department's "forbidden" list.

The visa for Hanoi was waiting for me behind a curtain of lacquered beads at the North Vietnamese embassy in Vientiane, the dusty little capital of Laos.

Pham Tam, the smiling first secretary who gave me the visa, asked if I wanted it stamped in my passport—or clipped loosely, to avoid later embarrassment. Stamp it in, I said. I'd like the souvenir.

For almost all westerners, Vientiane is the only gateway to North Vietnam.

The International Control Commission, which is supposed to be supervising the 1954 Geneva agreements on Indochina, operates a once-a-week shuttle flight to Hanoi.

My fellow passengers on the ICC plane were a mixed lot: A couple of Eastern European diplomats, a North Vietnamese official, Indian, Polish and Canadian ICC officials, and four young American pacifists who were going to try to explain the U.S. anti-war movement to the North Vietnamese.

There were also a couple of shapely French stewardesses, who passed out candy and cotton to make the two-hour flight in the noisy, unpressured cabin more comfortable.

The flights are always timed to reach Hanoi after dark, when the danger of aerial attack is presumably less.

We landed at 7:15 and taxied up to the blacked-out terminal. I confess I was a bit up-tight. How were they going to treat me? What would it be like for an American "behind enemy lines?"

Actually, the first five minutes in North Vietnam provided the only bit of James Bond-ish drama in the two weeks.

Four grim-faced border guards in gray uniforms entered the cabin. All the lights were turned out. A spotlight in the rear flashed on, shining in our faces as we shuffled one by one down the aisle.

With a flashlight, the guards suspiciously scanned my face and the picture in my passport. I hoped they matched. Apparently they did, since I was gruffly waved out the door and down the steps.

Things got friendlier as soon as I reached the terminal. A shadowy figure detached itself from the gloom and introduced himself as Tran My, my escort from the Vietnamese Journalists Association.

He led me into a side room and presented Truong Nhan, who was to be my interpreter. Along with a driver, these two men were to accompany me as long as I was in their country.

My, a thin, tense and solicitous man, was responsible for lining up my appointments, arranging my schedule, negotiating with local officials, telling me what I could or could not photograph, and generally keeping me in the channel prescribed for foreign newspapermen.

Nhan, a friendly, round-faced scholarly type, carried both a dictionary and a thesaurus with him, which he studied constantly to improve his English. He taught me about 100 words of Vietnamese, and I explained the fine shadings of meaning between English words.

In overall charge of my visit was Ngo Dien, the director of the press department at the foreign ministry, a courteous and polished spokesman for his government.

With few exceptions (bridges, beaches, ferries) I was allowed to photograph what I wanted. Foreigners' film is supposed to be developed before they leave the country, but at the last minute they waived this rule in my case.

The four stories I cabled from Hanoi were not censored, strictly speaking, but Ngo Dien or one of his assistants saw a copy of each before they were dispatched. They suggested a number of minor changes, mostly to clear up awkward-sounding quotes, but never tried to change the substance of a story.

By insisting on an advance copy, the officials probably felt reasonably sure I would not attempt to file anything particularly offensive to them while I was still in Hanoi.

They had no control, of course, of anything I wrote after leaving the country, but they asked me to send them clippings of my stories.

While we were waiting in the airport for my baggage to be checked—out of sight in another room—My offered bottles of lemonade and Hanoi beer. I tried the beer—a mild, light local brew, not unlike Miller's High Life.

There were custom forms to fill out, listing watches, weapons, radios, cameras, films, drugs and money. The questions were more detailed than required by most countries I've been in, except the Soviet Union—but the authorities were smiling and quick.

In less than 30 minutes, we got into the black Russian-made "Volga" sedan assigned to me. There are no private cars or taxis in North Vietnam, so a foreigner either walks or calls for his driver and car.

Except for a single armed soldier at a checkpoint outside the airport, the half-hour drive into Hanoi was almost a letdown. Nhan chattered away in the front seat, saying he'd never interpreted for a newspaperman before. "I hope I do a good job," he said earnestly.

The two-lane road was lined with trees, their trunks painted white for better visibility. A steady stream of pedestrians and cyclists flowed along both sides. The narrow, mile-long bridge over the Red River was clogged with traffic. The streets of Hanoi were wide, tree-lined, brightly lit.

The hotel where foreigners stay used to be known as the Metropole in French colonial days. Now it's the Thong Nhat, which means "reunification" in Vietnamese.

Four stories high, with a pleasant walled garden in back, its stucco walls could use a fresh coat of paint. But inside it is immaculately clean, smelling faintly of antiseptic.

I checked in at the desk, where all arrangements had been made by my hosts. I was assigned an enormous suite, at \$6 a day, which I later changed to a large single room and bath, at \$3.50 a day.

(All my expenses, incidentally, were billed to me through the hotel, including \$60 for the interpreter and \$260 for the car and driver in the city and a 700-mile trip in the countryside. The total cost of two weeks in North Vietnam, not counting air fares, came to \$431, which Knight Newspapers paid.)

In the rooms, the ceilings were high, the furniture heavy. There was no air-conditioning, but big electric fans stirred the muggy air and made it comfortable even under the mosquito netting on the bed.

My room had plenty of hot water, soap and toilet paper, things often lacking in communist bathrooms. There was also a perpetual thermos of scalding water to make tea.

Downstairs the lobby was lined with two rows of heavy wooden arm chairs with brown plastic seats, where the little foreign colony sat under the whirling fans, swapping rumors and impressions.

Either in the lounge or at the tiny high bar, sipping Russian vodka or Hanoi beer, there were usually half a dozen homesick Czech or Hungarian technicians; members of a Polish trade delegation baffled at the ways of the canny Vietnamese; an East German goodwill mission, pale and flabby; the four young American pacifists, intent on their notes and charts of the anti-war movement.

The hotel also contained foreign correspondents from the French, Italian and Japanese communist press, an East German TV crew making a documentary, and later on, a weary, rumpled man from the New York Daily Worker.

The working day begins early in Hanoi. At 5 a.m., I could hear militia units drilling in the park beneath my window. At 6, the street loudspeakers began blaring news and patriotic songs.

Some days my first appointment began at 7 a.m., and my last ended after 9 p.m.

But blessedly, the North Vietnamese work a two- to three-hour midday siesta into the schedule.

At that time or in the evening—in fact, any time I had a free hour or so—I was able to wander on foot alone and unrestricted throughout the city.

As far as I know, I was not followed, but of course a blond-haired Westerner sticks out like a sore thumb among the short dark Vietnamese. And with the language barrier, there was nothing I could see or do by myself that could be damaging.

Out in the country, I was always accompanied by my interpreter or escort or both.

The people, I found, were universally polite, often warm and friendly. Sometimes I got a hard, level stare, but it could have been curiosity, not hostility. A couple of citizens greeted me in Russian, assuming I was from the Soviet Union or Eastern Europe. Little boys flocked after me, grinning and teasing for souvenirs.

The morning after my arrival, I had my first official appointment, with an official of the foreign ministry who was to work out my schedule.



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I gave him a list of requests I had prepared. Some of them he approved, such as a trip south, as close to the Demilitarized Zone as possible. Some he rejected, such as a visit to Dienbien Phu. On others, such as a trip to the port of Halphong, he said he would see what could be done. As it turned out, there wasn't time.

Interviews were arranged with a number of high officials, including Foreign Minister Nguyen Duy Trinh, Minister of Culture, Hoang Minh Giam, Editor-in-Chief, Hoang Tung of Nhan Dan, the official Communist Party newspaper, Secretary-General Luu Quy Ky of the journalists association, a representative of the Provisional Revolutionary Government of South Vietnam and others.

I asked almost every day to see one of more of the captured American pilots. They never said no, but they never said yes. On the last day, My told me he was sorry but a meeting had been impossible to arrange.

"Why not?" I asked. "There wasn't time," I was told.

The early days were mostly taken up with visits to historical museums. It's how the North Vietnamese impress on visitors their view that the war is simply the latest incident in a long series of struggles against foreign invaders.

They didn't seem to be at all shy about admitting that their ancient enemy and most frequent unwanted guest was China, their giant neighbor to the north.

I was even told a couple of anti-Chinese jokes, including this one about the Vietnamese ambassador at the Chinese court:

The emperor, in order to humiliate the ambassador, asked if all Vietnamese were as short as he. The ambassador replied:

"Oh, no, your majesty. We have tall people, middle-sized people and short people. We ambassadors to middling countries and short ambassadors to little countries like yours."

(While passing this story along to me, my interpreter learned a new English phrase: One-upmanship.)

One of the most interesting museum exhibits was a huge room-sized electrified floor model of the battle of Dienbienphu. An hour-long tape-recording in English explained the famous 1954 victory over the French, with red flashing arrows marking the communist advance, and green blinking lights the shrinking French positions.

Another fascinating item was Ho Chi Minh's little wicker suitcase, sandals and portable typewriter. I was told that this is all the gear the communist leader carried with him in his mountain hideout during the nine-year war against the French. Ho was even more elusive than COSVN, the hard-to-find communist "headquarters" in Cambodia, my hosts noted with grins.

On the third day I was invited to an unusual press conference. It was held in an ornate, carved wooden hall, open to the air on all four sides.

About 50 Vietnamese and foreign reporters sat in chairs around the hall. In the center was a table for the guest of honor, Hoang Quoc Viet, an old ally of Ho Chi Minh's.

He was just back from an "Indochinese peoples summit conference" in China and wanted to tell the world press about it.

As Viet entered, most of the journalists stood up and applauded. He read a statement and the official declaration of the conference. Then he took questions, five at a time, and disposed of them in batches. At the end, he was applauded again.

Ron Ziegler, President Nixon's press secretary, never gets that kind of treatment.

At 7 a.m. on the fourth day, My, Nhan and the driver called for me in a sturdy, gray-green Russian jeep. We were off on a six-day, 700-mile journey through the countryside, and the soft-sprung "Volga" would never make it over North Vietnam's battered highways.

They were taking me down Route One, the famed "street without joy," which runs from Hanoi to Saigon and beyond. We would go within 25 miles of the DMZ, but my request to visit the border zone itself was turned down. "Too busy," I was told.

As the main communications link between Hanoi and the south, Route One was a favorite target of the U.S. Air Force and Navy during the four-year bombing raids.

The devastation along the route is incredible. I'd seen parts of Poland after World War II, when both the German and the Russian armies had worked it over, and it wasn't as bad as this.

Of course, the North Vietnamese are aware of the impact of a trip through the bombed-out zone. No doubt that's why they take foreign reporters there.

Nevertheless, the evidence of immense destruction to civilian as well as military targets is overwhelming.

The first 100 miles south of Hanoi weren't badly damaged. The road compares with a poorly maintained two-lane secondary highway back home.

Out of the industrial suburbs, vehicular traffic thinned out. We passed Russian- and Chinese-made trucks lumbering south with loads of petroleum, rice and ammunition for the battlefields.

There were truckloads of pipe for an oil line the North Vietnamese are constructing in southern Laos. There were steel I-beams and pontoons for bridges along the Ho Chi Minh Trail.

Besides being the national thoroughfare, Route One is also North Vietnam's Main Street. Pedestrians, bicyclists and ox-carts were almost as thick as in the city, moving from village to village strung out along the road.

The driver's thumb rarely left his horn. With a blare of sound he plowed a path through the river of humanity that parted before our jeep and closed again behind.

The road runs like a causeway across the rice fields, rippling emerald-green as far as the distant mountains. Every 10 feet, a foxhole has been dug on one side of the road or the other, in case American bombers appear.

One afternoon, when a jet that looked like an F-4 Phantom fighter-bomber buzzed our jeep, I started keeping an anxious eye on the nearest foxhole.

As we got further south, the occasional bomb craters along the roadside multiplied and grew closer together. Near the ends of bridges they pitted the face of the earth like acne.

Every bridge but one was knocked out, and we crossed rivers and irrigation ditches on rocky fords, makeshift plank bridges, pontoons or ferries.

Even so, the road was much better than last year, my driver said. It used to take five days to make the 310-mile run from Hanoi to Dong Hoi, capital of the southernmost province of Quang Binh. We made it in two days, with an overnight stop in a guest house recently built amid the ruins of the provincial city of Vinh.

There is nothing left of Dong Hoi, once a city of 14,000, but a mile-long field of craters and rubble, a cathedral minus its roof and a water tower with three shell holes in it.

They put me up for three nights in one of the temporary villages where the population has been relocated outside the city.

My "motel" was a dirt-floored, thatch-roofed but very clean two-room cottage with a palm thatch privy out back.

From there I was taken on tours of Dong Hoi and three neighboring villages. In each, local officials displayed actual and photographed evidence of bomb damage, and told how the people survived, by digging underground or scattering into the mountains.

It was in one of those villages, on the morning of May 1, that I watched Ameri-

can planes fly over North Vietnam and drop load after load of explosives on a valley hidden by low hills about 10 miles away.

Since the area was only 18 miles north of the DMZ, I presumed that some of the three divisions of North Vietnamese troops reportedly stationed near the border were there.

In answer to my questions, however, my escorts insisted there were no military targets, only farming communities. When I asked to be taken to the bomb site to see for myself, I was told it was too dangerous.

This is one of the few times I felt my hosts may have been somewhat deceptive with me. Otherwise, their efforts at "managing the news" consisted mostly of careful selection of what they showed me, a procedure employed routinely by all governments and corporate public relations departments.

Some answers to my questions, however, were disturbingly vague.

For example, when asked about American fears that there would be a bloodbath in South Vietnam if the communists took over, officials simply assured me they had a tradition of treating their enemies with leniency.

They passed over Ho Chi Minh's purge of his non-communist allies in 1946, the killings of landlords and rich peasants in 1956 and the apparent massacre of several hundred citizens of Hue during Tet, 1968.

Furthermore, they constantly complained about the activities of U.S. troops in Laos or Cambodia, but never conceded the presence of their own forces there.

In my conversations with the North Vietnamese, I told them I was a reporter, not an advocate for one side or another.

I told them I would write what I saw and learned in their country, balancing it against what I knew from other sources.

After I left Hanoi, I was going to Saigon, I said, to listen to the other side.

And that is how the series of articles beginning today in this newspaper came to be written.

EXCLUSIVE: HOW WAR LOOKS FROM INSIDE NORTH VIETNAM: MORALE SEEMS HIGH DESPITE BOMB DAMAGE

(By Robert S. Boyd)

High on a bomb-scarred hill about 100 miles south of Hanoi, white stones spell out a hugh slogan, like a "Beat Navy" sign at West Point.

"Quyet Thang," it reads in Vietnamese. "Determined to win."

More than anything else I saw in two weeks in North Vietnam, those words summed up the present state of mind "behind enemy lines."

Mentally, they seemed "determined to win." Materially, they looked as if they are prepared to carry on until they do.

Even before I left Washington, I was sure that the North Vietnamese would try to persuade me of their unshakable resolve.

It's an essential psychological tactic in their war strategy against a more powerful enemy, and they use it vigorously.

But even allowing for this hard sell, everything I saw or heard or read in the two weeks, including a six-day trip through 700 miles of countryside, led me to the conclusion that it's not just a bluff.

Five years of bitter war against the United States appear to have left North Vietnam: Battered but unbeaten.

Proud, confident, even gay.

Profoundly convinced that she can outwait or outmaneuver the United States and achieve the goal her leaders have sought for 40 years, a united, independent, and communist Vietnam.

"If we don't do it in our generation, the next generation will," one official said.

The very poverty, simplicity and hardship of life in North Vietnam provide perhaps her greatest strength in the war of wills.

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As long as she continues to receive the unstinting help of Russia and China, there is little the United States can do to hurt her more than it already has.

For this is no workers' and peasants' paradise. Even communist diplomats can't wait to get away from Hanoi on leave. Westerners say it's like coming up from underwater.

Wasted by 25 years of constant warfare, primitive in agriculture, almost totally lacking in industry, North Vietnam is terribly poor.

The average wage of 80 dong a month (less than \$30 at the official exchange rate) is enough to cover the necessities, which are cheap, but there are no luxuries.

Communist control is like iron. There have been recent crackdowns on intellectuals on party cadres feathering their own nest, on small craftsmen trying to make a nickel by repairing bikes or mending clothes on the side, on teenage "hooligans."

Monotonously repeated official slogans and the heavy-handed party line simply bore the ordinary Vietnamese, according to longtime foreign residents.

Except at times of great battles, like Tet in 1968 or the Cambodian excursion, people pay little attention to the canned news they are fed.

There is said to be a certain letdown that the Tet offensive did not bring the promised final victory, and that the leaders can only promise "protracted war."

Unlike South Vietnam, Laos and Cambodia, where open fighting rages, North Vietnam is suspended between war and peace.

They feel they have won the air war against the U.S. in the North, but the ground war elsewhere drags on.

"It's a half-won war," my interpreter said. "Half war, half peace," another official put it.

In Hanoi, the rundown French colonial capital, most of the scattered bomb damage has been repaired. Only a few heaps of ruins are left as a reminder.

Walking alone through the city during my free hours, I watched little boys play a Vietnamese version of marbles in the dust beside the famed one-man air raid shelters that line the city streets. The shelters are neglected and half-filled with trash, but could be cleaned out in an hour.

A soldier and his girl cuddled on a bench beside the lovely Lake of the Restored Sword in downtown Hanoi.

Peasant women, their teeth stained red from chewing the narcotic betel nut, squatted in the market, offering bright peppers, cucumbers, spinach, chicken, geese and even turkeys.

Sidewalk entrepreneurs did a brisk business running parking lots for bicycles—Hanoi's principal means of transport.

Ox carts plodded through the graceful, tree-lined avenues, oblivious of the occasional modern Russian-made sedan, Chinese truck or Czech bus passing them.

Loudspeakers in the trees blared patriotic songs and news of the latest American "atrocities."

There were soldiers everywhere, but few were armed.

The children have mostly been brought back from the countryside, where they were dispersed during the bombing.

Their games and laughter made the war seem very remote—and then a sonic boom rattled the windows. A U.S. reconnaissance plane had just made a pass high overhead, my escort told me.

In the countryside, to the south, the war was closer and more visible.

The scars of battle grew thicker the nearer I came to the demilitarized zone 350 miles south of Hanoi.

Rusting hulks of abandoned railroad cars, grotesquely twisted by bombs, lay along the tracks.

The main north-south highway, Route One, was nothing but dirt and rocks for

miles. Entire cities have been reduced to rubble.

But life goes on in the country, too. Peasants were toiling knee deep in the rice paddies. Production is higher than before the bombing, North Vietnam officials said.

Fishermen dried their nets and built new boats to replace those sunk, they say, by the U.S. Navy.

At twilight one evening, near Dong Hoi, I watched a group of little girls play a game like "jacks," using bamboo sticks, while artillery muttered in the distance along the DMZ.

Three men in the ruins of Dong Hoi reminisced how it used to be in the old days, drinking beer and watching the sunset over the western mountains.

The roads were being repaired slowly, mostly by teen-age girls working with hammers and shovels. Some of the smashed bridges were being replaced.

Small houses of mud-brick or wattle have gone up in new "suburbs" scattered around the fringes of ruined cities.

An occasional bombed-out brick factory or municipal building has been put back in service.

But in the countryside, most of the devastation caused by the air war from February, 1965, to November, 1968, has been left untouched—in part for fear it simply would be wrecked again.

"One doesn't build in order to be bombed," an official explained.

Despite the destruction, North Vietnam looks to an outsider like a relatively smooth-running, effective and orderly society.

Unlike so much of Asia, it seems to work.

The communist government is in firm control. People obey instructions. Appointments are kept. Supplies arrive. Streets and hotels are clean. Telephones function. Schools operate.

Discounting for propaganda, and based on just what I observed, it certainly did not seem to me to be a nation reeling on the brink of defeat or collapse.

There are great numbers of men of military age on the streets of Hanoi, and along the roads in the country. Some are in uniform; some not. Speculation in the West that the war has bled white a whole generation of North Vietnamese males appeared to me to be ill-founded.

People look well-fed and healthy. There are no beggars. No one looks malnourished.

Last year the basic rice ration was increased, officials said, to 35 pounds a month per person—up six pounds. About 40 percent of that is in flour or other rice-substitutes, but it is still an ample diet by Asian standards. (In Saigon, the average rice consumption is the same.)

Fruits and vegetables are plentiful. Meat is scarcer and costly, but most families, even in the city, raise chickens for eggs and meat.

Clothing, though simple, is adequate: green or tan cotton pants and shirts, sandals and a pith helmet for most men. Black pajama pants, a white, pink or blue blouse, sandals and a conical straw hat for the women.

Unlike the drab, padded Chinese, the girls of North Vietnam make the best of their natural beauty. They wear bras, fix their rich black hair in pigtails down to their waist, and use lipstick and eyeshadow when they can get it.

Through propaganda, slogans, movies, songs and stories the North Vietnamese are encouraged to think of themselves as living in a new "Heroic Age."

The deeds of resistance fighters are compared to the feats of ancient heroes from their country's 2,000 years of struggle against Chinese, Mongols, French and now Americans.

The nine-year-old boy who grabbed a smoking pellet bomb and hurled it away from his schoolmates; the 18-year-old girl

who manned a shore battery that sank a U.S. ship; the 74-year-old woman who helped tote ammunition to anti-aircraft crews—these are the sports stars, beauty queens and rock idols of North Vietnam.

A heady sense of having stood off the mightiest military power in the history of the world exhilarates people and makes their poverty and sacrifice easier to bear.

They feel they have taken the worst the United States can shell out. Even a renewed bombing or outright invasion of the north does not terrify them, they say.

They feel they can survive and endure. And by patiently enduring, they seem confident that in the long run they will win the victory they desire.

#### HOW BOMBINGS BATTERED NORTH VIETNAM (By Robert S. Boyd)

American bombs have turned the southern part of Northern Vietnam into a ghastly moonscape.

Countless craters pock the land—some small, some as big as 100 feet across and 30 feet deep. Huge gouges have been blasted out of hillsides.

For 200 miles north of the demilitarized zone, only a handful of substantial buildings still stand, and they are battered and scarred.

The provincial capitals of the four southern provinces (Quang Binh, Ha Tinh, Nghe An, and Thanh Hoa) are little more than mounds of rubble, partly covered by grass and creepers.

It's as if the principal cities in four states, Florida, Georgia, South Carolina and North Carolina, had been leveled and left that way.

Of course, the four North Vietnamese cities were hardly more than small towns by U.S. standards—15,000 to 20,000 people apiece. But still the only urban centers in the entire southern part of the country have been destroyed.

Route 1, the historic colonial highway from Hanoi to Saigon, is a nightmare of bomb pits, mud, rocks, detours, pontoon bridges and ferries.

It took two numbing days of jolting and jouncing in a Russian jeep to travel the 310 miles from Hanoi to Dong Hoi, the mile-long field of ruins which used to be the capital of Quang Binh province.

On all that way, I counted only one bridge which had not been destroyed. Even little 10-foot spans across irrigation canals had been knocked out.

The devastation is total, awesome, surrealistic. This is the zone, south of the 19th parallel, where bombing began first, in February, 1965.

It bore the concentrated fury of the U.S. Air Force and Navy between the partial bomb halt of March 31, 1968, and the full cessation ordered Nov. 1, 1968.

It is the "panhandle" of North Vietnam, the narrow funnel through which most of the men and supplies were channeled to the battlefield in the south.

It is the target area where former Defense Secretary Clark Clifford said U.S. bombings missions exceeded 10,000 a month.

Naturally, it is "Exhibit A" for North Vietnamese officials eager to impress visitors with the enormity of U.S. war "crimes."

"Why do you bother to send your astronauts to the moon?" Hoang Minh Giam, North Vietnamese minister of culture, asked wryly. "You can send them here and they will see the same thing."

Even for a reporter aware that he is being shown the worst damage in all North Vietnam, the evidence is overwhelming that devastation on a major scale occurred here.

If this was the "surgical" bombing aimed "with precision" at strictly military targets that the Pentagon described, with only a few unfortunate and unintended civilian casualties, I'll eat my portable typewriter.



Many of the bombs, of course, did hit military targets, like the blasted roads, bridges, trucks, railroad tracks and rolling stock which I saw and photographed on my trip.

Although I was not shown any military bases or supply dumps, SAM missile sites or major anti-aircraft installations, no doubt they were hit, too.

Some of the explosions from the one U.S. bombing raid I witnessed were so tremendous that I presume they may have struck an ammunition or petroleum dump.

Nevertheless, in the process, schools, hospitals, churches, pagodas and countless ordinary homes were also pulverized. I saw and photographed them, too.

The total of civilian casualties, like military ones, is treated as an official secret in Hanoi.

But in my visit I saw a number of women and children who had been seriously burned or scarred in air attacks. I talked to some of them and photographed them.

I was shown photographs, charred scraps of clothing, bullet-ridden school books, torn and twisted cooking pots, damaged hoes, shovels, bicycles, furniture.

Village authorities showed me notebooks filled with detailed lists and statistics on numbers and dates of attacks, types and quantities of aircraft and weaponry, numbers and names of casualties, medical diagrams of wounds, village museums displayed fragments of bombs and shot-down planes, equipment and clothing of captured U.S. pilots.

Although the displays are carefully collected and designed to impress visitors, so much evidence cannot have been invented.

There is no doubt in my mind that mass destruction of property and widespread killing of civilians occurred.

Whatever the intentions of the Pentagon planners, or of the young American pilots high up in the blue, North Vietnamese said they are convinced that the United States conducted a deliberate "war of extermination" against their people.

Communist officials said the four-year air war was designed to "break our will" and "force us to surrender."

As evidence, they cited the repeated use of napalm, phosphorus and steel-pellet "cluster bombs," which are only of use against living flesh, not steel or concrete.

The cluster bombs seemed to stir the most bitterness. About four feet long and 10 inches thick, they scatter over a field several hundred orange colored bomblets like small baseballs. Each bomblet bursts open on impact and sprays out about 250 steel pellets, about a tenth of an inch in diameter. Anything caught in this hail of metal is doomed.

The Pentagon says the cluster bombs are intended for use against anti-aircraft crews aiming at American planes.

And since every village in the southern part of North Vietnam seems to have its own homeguard trained to shoot at enemy aircraft overhead—sometimes only with rifles—the Pentagon can always take the position that a raid was "protective reaction."

Literally thousands of cluster bomb casings litter the countryside. They are used as decorations, as fence posts, as road signs, as footbridges across a ditch.

Most are painted with sarcastic slogans, such as President Nixon's name, or "America will surely lose; we will surely win."

Many bear loading dates only a couple of months before they were dropped.

One I saw had its manufacturer's nameplate, "Aerojet-General Downey, Calif." still neatly clamped to its shell.

Based on what I could see, there is no doubt in my mind that the U.S. attacks have continued long after the supposed bombing halt 19 months ago.

While I was taking pictures of our bombers striking Quang Binh province on May 1,

North Vietnamese bicycling on the road continued to pedal along, hardly bothering to look at the distant pillars of fire and smoke.

The local official I was talking to seemed irritated that I was wasting time watching the bombers instead of inspecting his collection of trophies. This indifference seemed to substantiate the North Vietnamese claim that air raids are still a routine occurrence.

Officials showed me photographs, medical reports and physical evidence (a shattered cooking pot, burned rice and clothing) of a raid they said occurred April 19 on the village of Trung Hoa, Quang Binh province.

Three people were killed and 17 wounded in that all-day attack, along with 44 buffaloes and four pigs, they said.

While there was no way I could verify the date of the raid, their photograph of a U.S. cluster bomb casing clearly showed the loading date: 12-69. That was 13 months after the official end of the bombing.

Another post-halt raid, on Feb. 5, 1969, killed two children in a village six miles west of Dong Hol and badly burned their mother, Mrs. Nguyen Thi Minh, 31, she said. I photographed her outside her damaged house.

Quang Binh province, the southernmost in North Vietnam, has been the heaviest victim of the raids. I spent 2½ days there, visiting nearby villages and living in a thatched-roof, dirt-floor cottage five miles west of Dong Hol.

At night, artillery could be heard rumbling along the DMZ, 35 miles away, and flares lit up the southwestern sky.

The chief of the Provincial "Commission for Investigation of U.S. War Crimes" displayed a notebook in which he said were records of 72 air raids in the last two months of 1968; 160 raids in 1969, and 32 raids in the first four months of 1970. These figures do not count reconnaissance flights, which are almost a daily occurrence and run into thousands, he said.

It was impossible to determine the accuracy of these statistics. They seemed high to me, but then so do official U.S. Claims of "enemy kills" in Vietnam, which are also impossible to verify.

At any rate, North Vietnamese seem to accept the figures. Everyone I talked to insisted that the United States is willing to kill civilians in order to achieve its aims.

"The attacks only made our will to resist stronger," said Mrs. Nguyen Thi Duyen, mayor of Dong Hol city.

"My people acquired a deep hatred of the enemy during the raids," said Nguyen Ngai, president of Vo Ninh village south of Dong Hol. "But their spirit is not shaken. They are more determined to fight back."

The irony is that the raids, for all their destructiveness, apparently never achieved their principal objective—inhibiting the flow of men and supplies to the south.

North Vietnamese boast how quickly they were able to patch up the road, rig temporary bridges, keep rail traffic moving steadily if slowly.

Spare tracks, ties and ballast are stacked all along the roadside right of way, ready for instant repairs.

I was shown a stretch of Route 1 in Vo Ninh, only about 25 miles from the DMZ. It had been bombed repeatedly and intensively. Enormous craters mark the surrounding fields.

But by using bricks from their homes, stones from the hills and clay from the rice paddies, the villagers had kept the road open. "It was never blocked longer than an hour," village president Ngai said.

A leading Quang Binh provincial official, Dang Gia Tat, displayed a sense of humor about the raids that laid waste to his province.

"The more you attacked us, the more we laughed," said Tat.

"You gave us handkerchiefs made out of nylon parachutes, cups from the shells of pellet bomblets, plowshares from the bomb casings, and aluminum cooking utensils from the metal of your planes which we shot down."

"You said you would bomb us back to the stone age," Tat grinned. "But instead, you brought us to the age of aluminum."

## DON'T DILUTE THE HONOR OWED TO OUR WAR DEAD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 1, 1970

Mr. DERWINSKI. Mr. Speaker, as we return to Washington after the brief Memorial Day recess, I hope that most Members share my observation that the public very properly and effectively commemorated the traditional Memorial Day holiday by paying proper respect to the men that had fought and died so that our land may remain the citadel of freedom. This fact was emphasized to the readers of the Chicago Suburban Economist prior to Memorial Day in an editorial Wednesday, May 27. The editorial follows:

## DON'T DILUTE THE HONOR OWED TO OUR WAR DEAD

With the nation badly split over Viet Nam war policies, it is likely that the real meaning and purpose of Memorial day will be lost this year amidst the fiery orations of speakers and demonstrators representing the several points of view.

Let us remember, then, that the purpose of Memorial day is to decorate the graves and honor the memory of men who have given their lives in armed conflicts for their country.

Actually, of course, the observance was originated by an Illinois native, Gen. John A. Logan, commander of the Grand Army of the Republic, when 102 years ago—May 30, 1868—he proclaimed this day to decorate the graves of Union soldiers who died in the Civil war.

Since then the day has come to be observed as a time to honor the dead of all wars. Many families, too, have adopted this custom of visiting and caring for the graves of all their loved ones, whether or not they died in the service of their country.

The point is that on this day we should direct our sentiments toward the sacrifices made by the gallant men in all branches of our armed services who answered their country's call and made the supreme sacrifice.

To spend Memorial day debating the political aspects of the Viet Nam or any other war—though this will be done on a wide scale, no doubt—is to detract from the valor of our fighting men the day is intended to honor.

This is not to say war in general or the Viet Nam war in particular should not be debated. It is to say that on this day we should unite to salute the individuals who have displayed the highest degree of bravery and patriotism.

Despite the widening gulf among all segments of our society, the country is worth saving. Indeed, it is the best on earth. Without the sacrifices made by the men we honor on Memorial day it would not be so. Let us not forget that as we fly the flag, march in parades and decorate graves.

As it is often said, they "gave their last full ounce of devotion." Let us give an ounce of respect on one day of the year to them. They deserve it.

RESOLUTIONS TO THE ACCOUNTING CRISIS IN MERGERS

HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 1, 1970

Mr. HARVEY. Mr. Speaker, recently an article appeared in the Commercial and Financial Chronicle, May 14, 1970, entitled "Solutions to the Accounting Crisis in Mergers." This article has particular impact because of the current interest over the Accounting Principles Board's exposure draft concerning accounting treatment of mergers.

Prof. Jules Blackman, author of the article, takes strong issue with the draft's approach to the pooling of interest treatment of mergers. He points out that the use of the devices involved in the draft "would make a shambles out of earnings reports." The article further states:

The changes designed to eliminate accounting methods which act to inflate earnings are constructive. However, the proposed shift to purchase accounting would create such unfortunate economic effects that it is an undesirable substitute for pooling.

The article suggests a number of methods for dealing with the practices with which the draft attempts to deal, without creating the problems which apparently would come from the adoption of the draft.

This presentation is certainly a most interesting and informative one in approaching an accounting decision whose impact will reach far beyond the accounting profession. Consequently, I include the entire article in the RECORD at this point:

SOLUTION TO THE ACCOUNTING CRISIS IN MERGERS

(By Jules Blackman\*)

In recent years, accounting conventions have played a significant role in determining the magnitude of reported corporate earnings. The changes in methods of reporting earnings for franchise companies and the requirement to report per share earnings on a diluted basis to reflect outstanding convertible securities and warrants are good cause in point.

"Generally accepted accounting principles" often cover a broad range of alternatives, thus making it possible to select those which will be most favorable from a tax point of view in terms of reported earnings. The various alternatives available for depreciation and for costing of inventories are familiar illustrations.

The name of the game in Wall Street during the past decade has been growth. High price-earnings ratio have been established for growth stocks. "Instant growth" in size could be achieved by merger and "instant earnings growth" by the methods used to record acquisitions. Loopholes have been developed within the framework of "generally accepted accounting principles" to achieve the latter objective. To close these loopholes and to eliminate abuses, the Accounting Principles Board recently has issued an Exposure Draft of proposed guidelines which is now being actively debated.

Combinations either have been recorded on a pooling of interests basis or by purchase accounting. Pooling of interests preserves a continuity of earnings by combining the records of the two companies for

earlier years and requiring no special charges against earnings. On the other hand, purchase accounting requires a recording of the "fair value" at the time of the purchase and may result in the creation of goodwill or other increases in asset values which provide a new cost basis and act to reduce reported earnings if they must be written off.

Most mergers have involved an exchange of common stock and have been recorded as a pooling of interests. The proposed new rules of the game would mean that purchase accounting would be used for most mergers with a mandatory amortization of goodwill over a period not to exceed forty years. The net result would be a reduction in reported earnings and hence a reduction in the attractiveness of many mergers.

ABUSES AND REMEDIES

I believe that the more significant methods of inflating of earnings under present practices could be eliminated without the severe restriction proposed on pooling of interests. Let me summarize briefly the abuses and possible remedies.

(1) Creating "instant earnings" by including in the financial report for a given year the financial results of companies acquired after the close of the year but before the financial reports are issued. The Exposure Draft properly seeks to stop this practice by providing for the combination "to be recorded as of the date (it) is consummated." Appropriate notes to the financial statements should "disclose . . . the effects of the combination on reported financial position and results of operations." (par. 59-62)

(2) Some companies have reported an increase in earnings by recording the latest year on a pooled basis and earlier years on an unpooled basis. This practice, which has been criticized by the SEC, would be stopped requiring a restatement of financial information for earlier years on a combined basis.

(3) Earnings have been escalated by reporting an acquisition in part as pooling and in part as a purchase. This could be stopped by requiring a company to use one method or the other for acquisition even though it was completed in two or more steps.

(4) "Instant Earnings" have been created when, under pooling, the acquired company's assets are placed on an acquiring company's books at the book value of the former and then sold at a higher price. The Exposure Draft provides that where a company "intends or plans" to sell off part of the acquired assets within two years it could not use pooling of interests. However, if there is no intent or plan to sell, pooling could be used and then if a sale is made within two years it would be permissible to report it as an "extraordinary item" (par. 58). This dichotomy of treatment would lead itself to new abuses. Companies could be careful not to commit to paper any evidence of intent or plan to sell off assets and then after the merger is completed "suddenly" discover reasons why assets should be sold. It would be better to forget about the two-year rule and to provide that all such earnings be classified as extraordinary and be fully explained.

These four methods of increasing earnings could all be eliminated within the framework of pooling. They could be corrected without throwing the baby out with the alleged "dirty pool."

(5) Since common stock must be used in an acquisition to qualify for pooling some companies have bought their own stock in the market for cash and then exchanged such treasury stock for stock of the acquired company. This loophole can be closed by confining the use of pooling only to situations where unissued stock is used.

(6) The Exposure Draft proposes to limit the use of pooling only to acquisitions where the smaller company is at least one-third as large as the larger company in a combination. It is often conceded that there

is no real basis for the size test but one should be imposed anyway. Thus, Andrew Barr, Chief Accountant of the SEC, has stated:

"Deterioration of the relative size test for qualifying for pooling accounting has received severe criticism. While it is my personal opinion that this test is not a sound basis for an accounting rule, as a practical matter the reimposition of a substantial size test appears to be desirable at this time."<sup>1</sup>

If pooling is conceptually sound—as it appears to be—on what basis can one select one-third or any other ratio<sup>2</sup> and then say that at a lower ratio it is not a satisfactory accounting method.

The economic implications of the proposed one-third rule also must be considered. It will hurt smaller companies which seek to merge because it will reduce significantly the number of potential merger partners. The marketability of smaller companies would be much reduced. This, in turn, will lessen the incentive to start new companies and hence reduce the extent of competition in the affected industries. I do not see any economic merit in the proposed size test, the main effect of which is to place a major hurdle in the way of large mergers.

(7) The Exposure Draft proposes that pooling could be used only where "90 per cent or more" of the exchange is accounted for by common stock (par. 46b). It does not appear that convertible preferred stock can be counted to meet the 90 per cent minimum. If such stock has voting privileges and is convertible into common at the holder's option, why shouldn't it be included in the 90 per cent total? The ability to issue such convertible preferred stock adds to flexibility in fashioning mergers. While such stockholders have a preferred position for dividends, in other respects they are similar to common stockholders. This is recognized under APB Opinion No. 9 since companies must now report earnings on a fully diluted basis—that is on the assumption that such preferred stock as well as other convertible securities and warrants are converted into common stock.

It should also be noted that the SEC has stated that "Only unissued common stock or convertible preferred stock which meets the test of being a common stock equivalent at issuance and which has voting rights equivalent to the common shares to be received on conversion should be issued in exchange for the common shares or the net assets of the company be acquired."<sup>3</sup> This is a more realistic interpretation of the role of convertible preferred stock than its exclusion from the 90 per cent rule in the Exposure Draft.

VALUING ACQUIRED ASSETS

Under the purchase method of accounting, the value of the net assets of the acquired company is changed to conform to the price paid by the acquiring company. Where the consideration is cash, the determination of the cost is relatively simple. But where the acquisition is made through the issuance of common stock or convertible preferred stock, almost insuperable problems are met in determining the "fair value" of these securities. When the purchase price exceeds the book cost of the acquired company, the difference is allocated to each of the assets where warranted with the amount not so allocated designated as goodwill.

MARKET PRICES OF STOCK DO NOT REPRESENT "FAIR VALUE" OF ASSETS

The Exposure Draft states that "The quoted market price of an equity security issued to effect a business combination may be used to approximate the fair value of an acquired company if that market value represents fair value." (par. 71) It notes that "the reliability of the quoted market price of stock . . . as an indicator of fair value

Footnotes at end of article.



# Senate

(Proceedings of the Senate Continued From the Congressional Record of May 26, 1970)

## ADDITIONAL STATEMENTS OF SENATORS

### THE PRESIDENT AND WAR IN VIETNAM

Mr. President, the foreign policy of the United States that involved our participation in the Vietnam conflict constitute one of the greatest tragedies in the history of our country. In going into Vietnam we violated a military and political axiom of centuries standing—that no country should engage in a land war on the Asian continent. President Eisenhower warned against this, as did General MacArthur after Korea. The French learned this, as have other nations throughout history. We saw our participation escalate from having a few advisers in Vietnam to the point where American boys had taken over the bulk of the fighting and were doing what President Johnson assured the country they would not be called on to do, and that was to do the fighting that Asian boys were supposed to do. We saw our force of fighting men increase to around 550,000 in number. We have lost 50,000 men killed—some of the finest men of their generation—and 1,000 of these were Alabama boys who laid down their lives for their country. Wounded Americans number some 300,000, many of them permanently injured. Some \$100 billion have been spent in support of the war effort. Our country has been torn asunder, our people divided, faith in our Government and democratic principles and institutions has been shaken. Many of our colleges and universities have been ruined. Weakness of character of many in responsible positions has been exposed. Our framework of government has been undermined. Our economy has been wrecked. Inflation runs rampant. Prices and unemployment shoot up. We are in the midst of a recession inside of an inflationary period.

All of this—and for what? No conceivable outcome of this tragic conflict could possibly justify our having participated in it to the extent that we have.

Surely there are few in the country who are glad we became involved in Vietnam. Surely there are few who do not want to see an end to the fighting and the killing. Surely there are few who do not want peace. Surely there are few who do not want to see our boys returned to their homes and their loved ones.

Americans want peace—peace with honor—but not peace at any price—not peace through abject surrender.

History has no record of a military conflict other than this one in which one side, with overwhelming power, with power to wipe its adversary off the face of the earth, has sought peace so assiduously and so magnanimously as has our country. Peace terms are not "unconditional surrender," for we have forsworn

a military victory and ask only that the South Vietnamese be allowed the right of self-determination as to its destiny and as to its government.

We have sought peace, publicly and privately, through usual and unusual methods, in direct and indirect negotiations, in open and in secret sessions.

We have brought the South Vietnamese and the Vietcong into the negotiations.

We have limited bombing; we have stopped bombing altogether.

We have withdrawn 115,000 troops from Vietnam, and the President has promised the withdrawal of 150,000 more in the next 12 months.

We have done all these things, but only one bilateral agreement has been made. That is the agreement on the shape of the negotiating table and the seating arrangement of the so-called peace negotiators.

Is there any wonder that a new approach must be tried?

It must be remembered that the Vietnam War is not of the making of President Nixon. When he became President, the War and our participation in it, except for the bombing halt, had been escalated to an all-time high. A record number of American troops were in Vietnam at that time.

President Nixon's policy at all times has been to de-escalate our participation in Vietnam and turn the fighting over to the South Vietnamese, but at the same time seeing that the American troops are protected and supported during the process of Vietnamization.

During this Vietnamization of the War, the President has been active in his efforts to get the North Vietnamese to enter into meaningful negotiations that would bring a lasting and honorable peace.

No person in the entire country wants peace more than President Nixon. The future of our country depends on it, and no one realizes this better than the President himself. He wants peace, and his efforts are expended toward protecting American lives, shortening the War and achieving peace.

For years now the North Vietnamese have used sanctuaries on the Cambodian side of the South Vietnam border for the purpose of attacking American and South Vietnamese forces in South Vietnam and then retreating back into Cambodia where they would be safe from pursuit by our forces. Tremendous stores of arms and supplies were maintained in these sanctuaries in Cambodia by the North Vietnamese.

In order to protect American troops in South Vietnam from further attacks by North Vietnamese from Cambodian sanctuaries while Vietnamization is proceeding, the President ordered an attack on these sanctuaries by American troops in concert with South Vietnamese.

These attacks have been extremely successful. Large stores of arms, munitions, and food supplies were captured. The enemy's ability to strike against American and South Vietnam troops has been curtailed. Further withdrawals of American troops from Vietnam can proceed on schedule. Vietnamization can continue. And the President promises that all American troops and advisers will be withdrawn from Cambodia by July 1.

The President has kept his promises about troop withdrawals from Vietnam, about Vietnamization, about his efforts to obtain peace. I have no reason to doubt that he will keep this promise to withdraw American forces from Cambodia by July 1, 1970.

Yes; as I have stated, the war is not of the President's making. He is not responsible for starting it; but now it is his responsibility. He says that he will end the war, that we will have a just and honorable peace. He accepts it as his responsibility to achieve these goals. He does not seek to shift the responsibility. He knows the risks involved. I respect him for his courage and his determination.

The Constitution is clear and specific on three points:

First, The President is Commander in Chief of the Armed Forces of the United States. As such he can direct the conduct of a war.

Second, Only Congress can declare war.

Third, Congress with its power over the purse strings of the Nation can finance a war or withhold funds with which to prosecute the war.

What then of undeclared wars or limited wars or military actions to protect American lives and property—who initiates these and who directs them?

The history of our country is replete with instances where limited wars or military actions have been initiated by a President. These actions have been taken by the President under his powers as Commander in Chief of the Armed Forces. Once the conflict has been initiated there seems little doubt of the President's power to direct the prosecution of the conflict.

But in the conflict in Southeast Asia, President Johnson used the Tonkin Gulf Joint Resolution of Congress as his authority to take whatever steps were necessary to protect American lives, property and interests.

So when President Nixon took office he found a full scale war on his hands, limited only by our own self-imposed limitations, among which were the bombing halt and the observance of the sanctity of the North Vietnamese sanctuaries in Cambodia.

It was his duty, then, and his responsibility to direct the prosecution of the war and to take steps to protect Ameri-

can troops as the deescalation, troop withdrawal and Vietnamization of the war proceeded.

The President, after considering intelligence reports from his military commanders in the field and from his military advisers, became convinced that enemy troop and supply concentrations on the Cambodian side of the border with South Vietnam were direct and immediate threats to the safety and security of the reduced American forces. As Commander in Chief he ordered these dangerous pockets cleaned out. At the same time he publicly declared his intention of having American troops out of Cambodia by the end of June. We have no reason to doubt that the President plans to keep this pledge. The progress to date of the campaign against the sanctuaries indicates that the President will be able to have all American troops and advisers out of Cambodia by July 1.

Congress has no power to limit or restrict the powers conferred on the President by the Constitution. Any such attempted action on the part of Congress would be a nullity. Congress cannot take from the President his powers as Commander in Chief of our Armed Forces. Those who back the Cooper-Church amendment apparently recognize this because the thrust of their amendment is not specifically to repudiate the President's actions by directing the withdrawal of American troops. Nowhere in the amendment is the right of the President to order the attack on the sanctuaries questioned. Nowhere is it averred that the President exceeded his powers as Commander in Chief.

The point in this controversy is not whether our troops should be in Vietnam, in Cambodia, in Southeast Asia. The point is that they are there, and we must not forsake them. It is unthinkable to suggest that we do anything other than support our American troops to the full extent.

The Constitution establishes the President's authority as Commander in Chief of the Armed Forces, the one man who must make final decisions affecting the use of our military forces. This is not a power that the President has seized without regard to the role and the prerogatives of Congress. It is a power that the Constitution has placed on the President. He would not be discharging his duty unless he acted to protect the members of the Armed Forces in Southeast Asia.

At the same time, and wisely so, the Constitution gives to Congress the sole authority to provide for or to withhold appropriations for our Armed Forces.

My attention has not been directed to any instance in the past history of our Nation where Congress even seriously considered exerting its control over the Government's purse strings so as to withhold support from American troops in the very heat of battle, putting their very lives in jeopardy while the debate is going on in the Halls of Congress.

The original Cooper-Church amendment set no date in the future when support for American troops in Cambodia should cease. Thus, the ban would be effective on the passage of the bill by Congress and its approval by the Presi-

dent; or, in the event of a presidential veto, on its passage over the President's veto.

The Cooper-Church amendment was accepted by the Foreign Relations Committee and has been reported back as part of the committee amendment.

Let us assume that the bill to amend the Foreign Military Sales Act passes with the original Cooper-Church amendment as a part of the bill; and that when the bill is sent to the President, the July 1 deadline set by the President has not been reached and American troops are still engaged in battle in Cambodia.

Doubtless, the President would veto such a bill with the overwhelming backing of the American people; and any such veto would doubtless be sustained.

But suppose the July 1 cut-off date is adopted. What would be the situation if the bill is not passed until August 1? What would be the status of support given our troops in that intervening period? Would that be illegal, and would those who gave such support before the enactment of the law be law violators?

Suppose again that the July 1 cut-off date is adopted. Does that mean that even though American boys are in the thick of the battle, risking their lives for our Country, but have not completed their mission by July 1 no more support will be given them because of the action which it is proposed the Senate take on cutting off funds.

I think it is significant that neither the original Cooper-Church amendment nor their amendment setting a July 1 cut-off date make any charge that the President acted without constitutional authority in Cambodia. Indeed the July 1 cutoff amendment would seem to ratify and sanction continuation of the mission until July 1, whereas, the original Cooper-Church amendment gives no such indirect sanction.

If, then, the President acted within his constitutional authority, why should the Senate be called on to repudiate his actions by withholding support from his efforts and the efforts of American troops in Cambodia?

The President has said that the destruction of the sanctuaries will protect American troops in Vietnam; that it will shorten the war and hasten peace; and that we will be out of Cambodia by July 1.

I respect the President's judgment, and I believe and honor his pledge that our troops will be out of Cambodia by July 1.

Proponents of the amendment agree that setting a cutoff date for support of troops is merely in line with the President's promise and is merely taking him at his word.

I don't see it that way. If we believe in and trust the President or if we respect him as Commander in Chief of the Armed Forces we would take him at his word on his promise to withdraw our forces by July 1, 1970.

We need only one Commander in Chief, and the Constitution wisely provides for only one, and that is the President of the United States.

Our country does not need a war council of 535, composed of 100 Senators and 435 House Members to determine strategy, to plan and employ tactics, to de-

cide where, how, and when to fight. Nothing could be more ridiculous or disastrous for our country.

Deciding such questions in the Halls of Congress in full view of the world would advertise our plans and our strategy and tactics to friend and foe alike.

A foreign power hardly needs an espionage system. Let them subscribe to the CONGRESSIONAL RECORD, Time magazine, the Washington Post, the New York Times, and the Wall Street Journal and obtain copies of the hearings of our Senate Foreign Relations and Armed Services Committees and they could gain a pretty good idea of our military preparedness and of our overall strategy of foreign relations, as well as the divisions among the American people in these areas.

This is just one of the prices we pay for having a democracy where the people have the right to know.

Adoption of the Cooper-Church amendment can in my judgment serve no useful purpose. Adoption of the amendment, on the contrary, would be detrimental for many reasons:

First. It would raise questions and create doubt as to the credibility of the President of the United States.

Second. It would question the powers of the President of the United States as Commander in Chief of the Armed Forces.

Third. Incredibly, it would cut off support from American soldiers fighting for their country, while they are on a military mission to which they were dispatched by the President of the United States.

Fourth. It abandons Cambodia and the Cambodian sanctuaries to the North Vietnamese and tells them that they can come back and take over Cambodia, thereby putting our American troops in South Vietnam in greater jeopardy.

Fifth. It seriously weakens the power of the President as spokesman for this country in the quest for peace. This repudiation of the President and his actions will be known in national capitals throughout the world within minutes of our action on this amendment.

Sixth. It emphasizes our national divisions and lack of unity in the matter of a national foreign policy.

Seventh. It could discourage firm and timely action by the President in future crises in use of Armed Forces of the Nation.

Eighth. It could encourage our real adversaries, Russia and China, in believing that we lack the national resolve and determination to see the Vietnam war to an honorable conclusion.

Ninth. It advises our enemies as to what our plans are in Southeast Asia, telling them just what limitations our Armed Forces are under, just how far we will go and no further. It removes all flexibility from future military plans and operations.

Tenth. It prevents the President from ordering attacks in the future on Cambodian sanctuaries without approval of Congress, thus tying the President's hands.

The President of the United States, acting as Commander in Chief of our Armed Forces, has had and will continue



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to have my support in his conduct of the war in Southeast Asia.

Certainly, I oppose any moves in the Senate to tie his hands, to snipe at him, or to criticize his actions before the world.

I oppose any action that will deprive American boys in Southeast Asia of support, or that will cut the ground from under them, or will indicate in any way that they have less than my enthusiastic support.

The President has acted. This is now the official policy of our country in the conduct of the war. As a loyal, patriotic American, as well as a U.S. Senator from Alabama, I shall support it.

Therefore, Mr. President, believing as I do that the Cooper-Church amendment is unwise, unnecessary, and not in the best interest of the country, I must oppose it.

#### EDUCATION FOR HATRED—MIDDLE EAST TRAGEDY

Mr. SCOTT. Mr. President, one of the fundamental causes of the trouble which has kept the Middle East in turmoil for more than a generation is the teaching of hatred that has been inflicted upon young children in the schools of many Arab countries.

Unfortunately, some of this miseducation has also infected schools in UNWRA—United Nations Relief and Works Agency for Palestine Refugees in the Near East—camps, where teaching materials have tended to implant hatred of Israel into the minds of the students. The United States bears a heavy responsibility in this connection, because we supply the major part of the money which supports UNWRA.

This whole subject is discussed in detail in an article entitled "Education for Hatred—Middle East Tragedy," written by Dr. James H. Sheldon and published in the current issue of *Prevent World War III*, a magazine published by the Society for Prevention of World War III, 50 West 57th Street, New York, N.Y. The article is based on a study made by Dr. Sheldon during a trip to the Middle East, completed just a few weeks ago.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

#### EDUCATION FOR HATRED—MIDDLE EAST TRAGEDY

(By James H. Sheldon)

The question of future peace or war in the Middle East is apt to be determined in the schools of the Arab states. A survey indicates that unless something is done promptly, the choice is likely to be war.

For many years UNESCO (the United Nations Economic and Social Council) has been trying to persuade member nations to remove from school texts material which teaches warfare against other peoples or inculcates group tensions. The attitude of one Arab state, Syria, was summed up in a letter to the Director-General of UNESCO written by Suleyman Al-Khash, the Syrian Minister of Education. As reported in "A-Thaura, the Ba'ath party organ (Damascus), on May 3, 1968, the Minister wrote: "The hatred which we indoctrinate into the minds of our children from birth is sacred."

Here is a passage from a first-year reading primer used in Syrian elementary schools: "The Jews are the enemies of the Arabs. Soon we shall rescue Palestine from their hands."

In a secondary school in Jordan, students of the rules of Arabic grammar are asked to analyze this sentence: "It is arms that will free our stolen homeland." A more difficult exercise is based on this: "The Arab soldiers will lead our enemies to the slaughter."

#### TRAINING FOR TERRORISM

In Egypt, sixth grade reading students study the story of a young boy who was sent to the baker's shop by his mother, to buy a basket of bread. On the way, he meets some Arab soldiers. He volunteers to conceal one of their dynamite bombs under the bread, and to take it into the nearby Jewish headquarters. "Will you let me blow it up? Give me the dynamite and I promise to do whatever you tell me," the youth says. "The soldiers gave me some explosives, which I carefully hid in my basket, placed the fuse on top, and after they showed me how to explode it, I went to the bakery where I bought bread and hid the explosives under it," the story continues.

Then we read: "I went to the enemy post, looked warily around and then placed the basket in a corner after lighting the fuse with a match, then ran away to save myself, but I had run hardly a few steps when the dynamite blew up, destroying the post and killing the enemy Jews. A pillar fell on my leg and broke it. . . ."

After reading this, the class is supposed to discuss the story and answer questions such as: "Who occupies Jerusalem today? What was the device suggested by the lad? How did he blow up the enemy? What did his bravery cost him? Do you know another story about Palestine?"

Hatred is bred into the child not only in history and social science courses, but it is imbedded in ordinary arithmetic and spelling problems. On the reverse side of the standard exercise book used by teachers in Syrian elementary classes appears a map of Israel with a bomb directed toward Tel-Aviv. Around the margin are pictures of Arab soldiers directing guns toward Israel. The whole thing is captioned "We Return."

The infection becomes even more alarming when it spreads into the UNWRA refugee camps.

The use of the camps—and their schools—for such indoctrination is now not only admitted, but has become the subject of open boasts by the Arab states.

We read in *The Arab World* for May, 1969: "In the refugee camps Palestinian youth aged 8 to 14 receive military, political and athletic training after school as members of the Al Ashbal (Lion Cub), the scout movement of the Palestine Liberation Movement."

The Arab World, from which this is quoted, is the official organ of the Arab Information Center, in New York—which is the formally designated agency of the Arab League states in the United States.

By providing facilities for "youth activities" such as these Lion Cub scout organizations, refugee camp schools thus make available a direct recruiting channel into the guerrilla groups.

#### UNWRA'S RESPONSIBILITY

Education in the camps is under the general control of local or "host" governments. Although UNWRA is theoretically responsible for "technical standards," the Commissioner General's 1968 Report pointed out

\*U.A.R., Ministry of Culture and Education, "Reading and Entertainment," for the 6th elementary grade, by Khalid Qutrah, Abd A. Hamur and Afat W. Hamzah. (Cairo, 1960).

that "the curricula and textbooks employed in the UNWRA/UNESCO schools have in the past been those prescribed by the host governments for their own national systems of education." For example, the Egyptian text, with its story of the boy who concealed the bomb, as quoted above, was used in the UNWRA schools of the Gaza Strip, until the Israeli occupation.

In 1968 UNESCO established a group of experts to review the text of books in use in the UNWRA schools. So bad were these teaching materials that this international commission of educators recommended that 65 of the 127 books it examined be "modified" and that 14 others be completely withdrawn from use.

The Arab governments concerned have vigorously opposed the right of either UNESCO or UNWRA to control the choice of textbooks, contending that such action would "constitute an infringement of their sovereignty."

In the Gaza Strip, the Israeli authorities became responsible for the military administration, a survey of books in use in UNWRA schools resulted in 70 out of a total of 79 being excluded because of hate-breeding subject matter.

As a result, a kind of stalemate has developed, and the 1969 Report of UNWRA's Director General remarks that, in the absence of anything else, "school texts declared to be obsolete" following examination by the committee of experts continue to be used in Syria and East Jordan, while in the Israeli administered areas of Gaza and the West Bank temporary "teaching notes" have been made the basis for most classwork pending some over-all solution.

In all the areas, teachers are local people. In the entire Middle East, as of June 30, 1969, the UNWRA payroll included only 110 persons on the international staff (direct employees of UNWRA and personnel loaned from other UN agencies), as against an enormous 12,901 employees on the "locally recruited staff," among whom were the 6000 teachers who man the classrooms.

The host governments, as a rule, have insisted that these teachers and other employees are subject to their local regulation, and the guerrilla groups have constantly exerted additional pressures, to the extent of using many camps as recruitment and training centers, and (in the recent case of Lebanon) actually usurping the policing of the camps. The resulting situation has constantly pushed educational methods into more and more bellicose formats.

The problem is particularly acute at the secondary school level, for UNWRA does not directly operate classes for these grades, but instead subsidizes the attendance of some 20,000 older refugee children at regular government schools in various Arab countries. These young people are, of course, the "opinion makers" of the new generation.

#### TEACHING HATREDS

Let us consider what a first-year secondary student studies in the Egyptian schools (including the Gaza Strip before 1967). A course in religion uses a text provided by the Egyptian Ministry of Education and Instruction, in which we learn that "the Jews, more than others, incline to rebellion and disobedience." A parallel text on Arabic Islamic history adds that: "The Jews will not live save in darkness; they contrive their evils clandestinely." And in Jordan, a 3rd year high school text printed by the Ministry of Education itself quotes at length from the infamous *Protocols of the Elders of Zion* (a notorious forgery, widely used by Hitler in his anti-Jewish propaganda), describing "force and deceit" and "the spreading of corruption" as approved "Jewish" ways of gaining power. "The

<sup>1</sup> 1968 Annual Report of the Commissioner-General of UNWRA, p. 9.

Jewish Elders" are supposed to have declared, according to page 41 of this preposterous text, "We must unhesitatingly carry out the theft of the property of others."

Even art classes are used for the same hate-breeding purposes. When Gaza was occupied, a girls' school was found to be decorated with colored drawings, made by the students, in which Arab women were depicted being defiled by Jewish soldiers. Art work on an adult education text in Syria ("Salem in the Army") shows Arabs pushing struggling Jews back into the sea, as they try to escape from drowning. And another drawing by a girl student in Gaza, exhibited on a classroom wall, pictured young Arabs murdering Jews in a whole series of unpleasant ways.

It is obvious that the reconstruction of the Middle East requires us to start by cleansing the educational processes.

UNESCO has been conspicuously without success in bringing about reforms in the teaching methods of the governments themselves. In the Arab states, UNRWA likewise has been unable to effect basic changes in texts, and unable to exercise real control over the attitudes of teachers. In the Israeli occupied territories, a temporary and uneasy compromise has resulted in the use of locally reproduced "teaching notes," pending a general solution of the textbook question.

The governments providing major financial support for UNRWA can, however, exert pressure upon that considerable segment of education which is supported from international budgets. The United States—and other contributing governments—should, at the very least, insist that the money they supply be not used to teach hatred, or to finance "youth activities" such as the junior guerrilla organizations. This is an obligation owed both to the taxpayers of this generation, and to the peace and security of the future.

### THE SPEAKER STEPS DOWN

Mr. KENNEDY. Mr. President, last Wednesday Speaker JOHN W. MCCORMACK announced that he will not be a candidate for reelection to the House of Representatives this fall. It was my honor to be present at his news conference when he made this announcement and to express my great respect and affection for him. I will have more later to say relative to his distinguished service to his State and his country, but I now ask unanimous consent that editorials from the Boston Evening Globe and the Boston Herald Traveler, which pay tribute to the Speaker, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Boston (Mass.) Evening Globe, May 21, 1970]

#### THE SPEAKER STEPS DOWN

When a man is 78, and has served the public well for more than half a century, and has been Speaker of the House of Representatives longer than any man except the late Sam Rayburn, he is surely entitled to indulge himself in some sentimentality when he announces he will not run for reelection.

But there was none of that at all in what John W. McCormack of the Ninth Congressional District had to say in Washington on Wednesday. He was remarkably composed, and in great humor, and it can be said that nothing more becomes the quality of his long service to the nation than the manner in which he is leaving it.

It may not matter much, except to local pride, that John McCormack, the seventh Speaker from Massachusetts, has put the Bay State far in the lead as the mother of Speakers, much as Ohio became known as the

mother of Presidents. There are other, more important things now.

Nor does the recent criticism of the Speaker matter much, either. The record of achievement will be far more enduring. It starts with service as a delegate to the state constitutional convention in 1917; as a state representative in 1920-22; in the State Senate from 1923 to 1926, and as a congressman from 1928 till now.

Mr. McCormack has occupied the most powerful office in Congress, and the third highest elective office in the land, since 1962. An earlier Speaker, Thomas Brackett Reed of Maine, once cynically defined a statesman as "a dead politician," but both Speaker McCormack and his mentor-predecessor, "Mr. Sam," ably proved he was wrong.

Because it was so long ago, most people tend to forget today that there was a time when the story of Horatio Alger had some meaning. It had some for John McCormack. Left fatherless at 13, he had to go to work to support his mother and two younger brothers. He never attended high school or college.

Most people also tend to forget, because most of them weren't born yet, the atmosphere in the nation and in Congress shortly after John McCormack, much like Mr. Deeds, first went to Washington. Yet there is a comparison, for the nation was in much the same sort of crisis then as it is today, except that now it is over a foreign war, and then it was the Depression.

The situation then seemed hopeless to many. There were record millions of unemployed. People wondered not just how, but even whether, the nation could be saved.

We remember John McCormack then, leading the fight for the poor (now the word is "underprivileged," as if it made a difference). He was an able, tough debater, and not without reason could he describe himself after becoming floor leader as "Franklin Roosevelt's good right arm."

And his sense of humor has never left him. So good a poker player is he that an oil-rich senator once told a reporter he would rather pour his money down a manhole than get into a poker game with John.

"Don't you believe a word of it," said Mr. McCormack with a perfectly straight face, "I'm just learning the game."

It is a matter of great pride to Speaker McCormack that no matter where he has traveled nor how great the pressure of official business, he has never missed having dinner with his wife since they were married in 1920. There are not many men on this earth who can say that, and it is not an unimportant matter.

Now there will be a great scramble to see who will be elected from the Ninth District to succeed him. Taking the long view, it seems doubtful whether any of the Bay State's young hopefuls can ever equal his record and then top it off by quitting when they are ahead.

There has been criticism of John McCormack because of his age. He gave one answer to that on Wednesday when he said, merely, "I know how old I am and I don't apologize for it." It was well said.

But there was another answer, too, an even better one. He was asked what bill he would most like to see passed in the current session, and he said it was the Voting Bill, particularly with its section giving 18-year-olds the vote.

There was an accent on youth there that a lot of us might well envy. Speaker McCormack surely knows the nation is in a crisis, perhaps one of the gravest in its history.

It is a mark of his own greatness for him to recognize as he has done the vital role that our youth must play in helping us out of that crisis.

We wish the Speaker and his wife many more years of the "peace and relaxation" that they have earned so well.

[From the Boston (Mass.) Herald Traveler, May 21, 1970]

#### MCCORMACK: THE LAST HURRAH

"Only in America" was a phrase popularized by Harry Golden. But Rep. John W. McCormack was fond of reciting it to describe his own career. Where else but in America, he would ask, could a poor Irish lad who quit school at the age of 13 rise to one of the most important and powerful positions in the country?

Young John McCormack supported his widowed mother and two younger brothers by running errands in a law firm. By reading law at night he managed to pass the bar exam and to begin a career as an attorney. It wasn't long, however, before he turned to politics, an art he had practiced with great skill and dedication for more than half a century.

After serving as a member of the Massachusetts Constitutional Convention of 1917-18, McCormack was elected to the state House of Representatives and then to the state Senate. In 1928, his constituents in South Boston sent him to Washington, where he has represented their views and interests with diligence and distinction ever since.

Several politicians had announced that they would oppose his reelection this year, but that apparently was not the reason for his decision yesterday to retire from Congress at the end of his present term. Few political experts doubt that the voters of the 9th District would have given McCormack another term had he asked for it.

Though many younger and more liberal Democrats in the House have been unhappy with McCormack lately, when his leadership was challenged only three months ago the Speaker trounced them and won a new vote of confidence by the overwhelming margin of 192 to 23.

Apparently the principal reason for McCormack's decision to retire from the House is the illness of his wife, Harriet. His devotion to her is legendary; during the 50 years of their marriage he has never allowed the many demands upon his time to prevent him from having dinner at home with his wife every single night. Her poor health has been a source of mounting concern to the Speaker, and he has certainly earned the right to spend more time with her in retirement after more than half a century of public service.

Rep. McCormack's impending departure from the House will leave a large void in Washington. It may be some time before the Congress will seem quite the same without him.

The Herald Traveler hasn't always agreed with Speaker McCormack's views and votes on the issues. In fact, we often disagreed rather strongly with them. But we have never had cause to question his motives, his integrity or his devotion to high principles.

Raised in the rough and tumble politics of South Boston, McCormack could be tough and stubborn. But even his political foes and critics have conceded that he was always a gentleman who treated them with fairness and courtesy.

And while he has also been a staunch and partisan Democrat, he has never been afraid to break party ranks when his convictions told him that was the right thing to do. This rather old fashioned concept of "the loyal opposition" has led McCormack to support the Vietnam policies of a Republican President as well as Democratic presidents because all of them, in his view, have been seeking "peace with justice, not peace at any price."

If this is what is meant by the term "the old politics," maybe we need more of it—not less—today.

#### SOCIAL SECURITY IMPROVEMENTS

Mr. BYRD of West Virginia. Mr. President, overwhelming approval of the Social Security Amendments of 1970 by



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of Transportation's Office of Economics and Systems Analysis done early last year predicts an SST market of only 420, going down to 370 if there are significant delays in the program (CONGRESSIONAL RECORD, May 18, 1970, p. H4481). Outside analysts have predicted that SST sales will be as low as 139 (CONGRESSIONAL RECORD, Nov. 17, 1969, p. H10951).

I commend Boeing's pamphlet to my colleagues. It is useful to have both sides of the case presented, especially when that of Boeing is so woefully weak.

#### VIETNAM

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Louisiana (Mr. RARICK) is recognized for 10 minutes.

Mr. RARICK. Mr. Speaker, the psy-war promoters continue their tension strategy to frighten the American people with innuendos of the possibility of Red Chinese entry into the Vietnam-Indochina war. One premise used in this rationalization is the alleged surprise Red Chinese involvement in Korea because of under evaluation from our military intelligence and commanders at that time. Three years ago I had quoted from General MacArthur's reminiscences a communication by Maj. Gen. C. A. Willoughby denying the distortion in military accountability.

Despite the denial from his chapter on the Chinese Communist war from "MacArthur: 1941-51," by General Willoughby and John Chamberlain, as recently as May 12 of this year—page S7001—the military political apologist, Gen. James M. Gavin, is reported to have stated "I hasten to call on General Willoughby, MacArthur's G-2 to discuss with him the implications of possible Chinese entry into the war. He was the belief that they did not enter the war, that they had missed their opportunity to do so at Inchon when the landings were taking place."

Since General Gavin's purported testimony reinjected the charge of military misjudgment, I contacted General Willoughby at his home in Florida and have received the enclosed telegram:

NAPLES, FLA.

HON. JOHN R. RARICK,  
House Office Building,  
Washington, D.C.:

Reference General Gavin's remarks the whole trend is to warn against the intervention of Red China and thus disparage Nixon's current strategy including the maneuver in Cambodia which is approved of by many professional soldiers I know of. In order to make China's speculative entry into action plausible, Gavin revives the Sino Korean war. In quoting me as believing that the Chinese would not enter, he also revives the old Truman hoax that MacArthur misled him at Wake Island. The President had daily reports for months that the Chinese were massing along the Yalu.

So had Gavin as a member of J.C.S. I do not recall Gavin's visit to Tokyo nor this conversation. I raise the question as I did at Wake Island. Did Gavin expect a casual discussion to supersede daily telecons on the subject? We reported 24 Red divisions along the Yalu as of October 15th, 1950 ready and able to cross the river. Washington's guess was as good as Tokyo's if they would dare to cross. In fact they were encouraged to cross. Now some Chinese may want to get their fingers into the Viet Nam pie but are quite a

distance away from Saigon. Why browbeat Nixon on what is still a speculative potential. Or browbeat him to learn from the Sino-Korean war 1951 with allegations that long have been disproved. This whole gambit is a repetition of the Wake Island hoax. It still crops up from time to time. We refuted it extensively and in detail in the Congressional Record H7343 June 15th, 1967. I published the same material in the Washington Post of May 29, '67. The nationally known columnist John Chamberlain covered the same date on December 1st, '64 and again on April 7, '67. He was co-author with me of "MacArthur 1941-1951." See chapter 16, "The Chinese Communist War," pages 378 to 417. I stand on my authoritative positions as the responsible editor-in-chief of the MacArthur reports. U.S. Government Printer, catalog Number D-1012M11. Four volumes, 1966 to 1968.

Maj. Gen. CHARLES A. WILLOUGHBY.

General Willoughby's telegram as well as his written reports should convince objective scholars that General Gavin's recent testimony is unsubstantiated, in fact denied, by the G-2 for Gen. Douglas MacArthur.

I include my remarks of June 15, 1967, as follows:

#### CRISIS IN WORLD STRATEGY: INTIMIDATION OF PRESIDENT JOHNSON EXPOSED

(Mr. RARICK was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RARICK. Mr. Speaker, in a brief discussion of the current crisis in world strategy in the RECORD of June 14, 1967, at page H7244, I quoted the immortal 1951 address of Gen. Douglas MacArthur before a joint meeting of the Congress. Its main points are just as applicable today in Vietnam as they were as regards Korea. Thus, I have read with interest and astonishment an article by a columnist of the Washington Post, Marquis Childs, in the May 29, 1967, issue of that newspaper on "The Viet Nam War: Will China Enter?"

In this article I find, in slightly modified form, the Wake Island Conference calumnious falsehood that General MacArthur misled President Truman as to the possible intervention by Red China in Korea, which author Childs cleverly stresses by quoting a relatively unknown writer's description of MacArthur's advance to the Yalu as "one of the most egregiously wrong strategic intelligence estimates in history."

Because of the seriousness of this criticism, I have looked into the matter and my search has been rewarding. The essentials are set forth in Gen. MacArthur's Reminiscences—McGraw-Hill, 1964—a "Communication from Maj. Gen. C. A. Willoughby in the Washington Post of May 9, 1964, and an article by John Chamberlain in that paper on April 7, 1967. In view of the completeness of the record it is difficult to understand why the Post permitted the publication of the Childs' article without corrective editorial comment.

The facts about the Wake Island episode are—

First, that near the end of that conference the possibility of Chinese intervention came up in a casual manner.

Second, that the consensus of those present was that Red China had no intention of intervening.

Third, that President Truman asked General MacArthur for his views.

Fourth, that the general replied that the answer could only be "speculative," that neither the State Department nor the Central Intelligence Agency had reported any evidence of intent by Peiping to intervene with major forces, but his own intelligence had reported heavy concentrations of Red Chinese in Manchuria near the Yalu, and that his "own military estimate was that with

our largely unopposed air forces, with their potential capable of destroying, at will, bases of attack and lines of supply north as well as south of the Yalu, no Chinese commander would hazard the commitment of large forces upon the devastated Korean Peninsula."—MacArthur, "Reminiscences," page 362.

Fifth, that there was no disagreement from anyone present as to what MacArthur had stated.

The picture drawn in the Childs article that the President had to go to Wake Island to obtain strategic information of Red China's moves, and potential is false. That information was available in Washington in minute detail in daily intelligence summaries and required no confirmation at Wake Island or any other place. Conversely, General MacArthur did not need to make declarations that have since become the basis for articles such as that by Marquis Childs. MacArthur's own intelligence traced the progressive moving and massing of Chinese armies from the interior to the Korean border. His staff in Tokyo located 33 divisions on the Yalu at the time of the Wake Island casual conversations. President Truman went to Wake Island surely not for information that was already available to him in Washington but for political effect and MacArthur's advance to the Yalu was on direct orders of the United Nations—See statement by General Willoughby quoted later.

Many years later, when writing about this angle of the Wake Island conference, General MacArthur stated that it was "completely misrepresented to the public through an alleged but spurious report in an effort to pervert the position taken by him," and that it was done by "an ingeniously fostered implication that he had flatly and unequivocally predicted that under no circumstances would the Chinese Communists enter the Korean war." He described this as "prevarication."

Despite the glaring distortions of history in the Childs article, its author does perform one useful purpose: the identification of some of those responsible for opposing MacArthur's plan to end the Korean war. They were Assistant Secretary of State for Far Eastern Affairs Dean Rusk, Special Adviser W. Averell Harriman, William P. Bundy of the Central Intelligence Agency, and Secretary of State Dean Acheson. These same individuals are influential in foreign policy-making today and some of them are obviously trying to frighten President Johnson and thus to prevent him from allowing our forces to end the Vietnam war in the shortest time with the least cost in lives and treasure by applying every available means for victory. What these "strategists" are actually doing is playing into the hands of the international Communist forces under conditions favorable to them.

Although General MacArthur did sense that a "curious and sinister change" was taking place in Washington aimed at "temporizing rather than winning" the war, he did not then know that our forces would be prevented by elements in our own Government from bombing Red Chinese sanctuaries in Manchuria, from using the forces of free China on Formosa, from intensifying the economic blockade of Red China, and from establishing a naval blockade of the China coast.

Fortunately, as previously indicated, others have written on this particular episode: Major General Willoughby, who was MacArthur's Chief of Intelligence, was in daily touch with Korea with both MacArthur and Washington; and John Chamberlain, who is an objective and forthright writer and co-author with General Willoughby of "MacArthur 1941-1954"—McGraw-Hill, 1954. The facts in their articles previously cited refute with devastating completeness the allegations in the Marquis Childs article under dis-

cussion and expose the utterly false and malicious accusation that MacArthur had misled President Truman.

Because the use of this particular acquisition has become a habit among certain publicists and because it is still being used as a propaganda lever against the best interests of our country, utterly ignoring the refutation involved, I quote the three cited writings as parts of my remarks and commend them for study by all who seek the truth.

[From the Washington Post, Apr. 7, 1967]

THEY CONTINUE TO MISUSE MACARTHUR  
(By John Chamberlain)

If a canard is repeated often enough, it becomes history. And then it is used to prevent clear thinking about history that is still to come.

This is exactly what is happening in the case of the lie that Gen. Douglas MacArthur led President Harry Truman astray at their Wake Island conference by assuring him that "he could march to the Yalu and not a single Chinese soldier would enter Korea."

The Wake Island canard is still being trotted out to scare Lyndon Johnson into treading lightly in Vietnam. The worst thing about using MacArthur's alleged "mistake" about Korea to prejudice our contemporary Vietnam planning is that it encourages Ho Chi Minh to keep the war going while thousands continue to die.

I've been over this many times with MacArthur's Chief of Intelligence, Maj. Gen. Charles A. Willoughby, whose papers include some quick staff notes covering what happened at Wake Island. MacArthur was indeed asked about the chance of Red China's intervention if we were to move north to the Yalu. What he gave Mr. Truman was a "speculative" answer. He said his own local intelligence reported heavy Chinese concentrations near the Yalu border in Manchuria, but that a Chinese military commander would not dare risk committing large forces on the Korean peninsula when we had the "atomic potential capable of destroying at will bases of attack and lines of supply north as well as south of the Yalu." (The quotation is Willoughby's paraphrase of MacArthur.)

Of course, the Red Chinese did attack, but only after they had satisfied themselves that MacArthur would not be permitted to bomb the Yalu bridges or otherwise touch the "privileged sanctuary" in Manchuria. Since MacArthur's assurance that no sane Red Chinese commander would risk his troops on the Korean peninsula was based on the sound military proposition that the American forces would be permitted to destroy the enemy's communications over the Yalu, it is certainly stretching things to say that Harry Truman was "misled" by what was said at Wake Island. Mr. Truman knew that military men think in applicable military terms.

The Korean "parallel" has no relevance to the Vietnam situation unless we plan to assure Mao Tse-tung that even if the Red Chinese soldiers march south we will not touch his atomic plants or permit Chiang Kai-shek's 600,000 troops to land on the Asian mainland.

Fortunately there is one present-day commentator who doesn't fall for the continuing widespread misuse of Wake Island history. In his fascinating autobiographical memoir, "It's All News to Me," which is a smooth blend of light and serious stuff, Bob Considine has a lot to say about his encounters with MacArthur.

He mentions the use that 200,000 Chinese "volunteers" made of "a slender rail line, marshalling yards and depots, airfields and maintenance sites which MacArthur had been forbidden to bomb." The implication that MacArthur had had his hands tied is clear.

MacArthur is supposed to have warned against committing U.S. troops to continental Asia, but Considine shows that the General had no compunctions about using picked U.S. forces in special mainland situations.

In a birthday interview MacArthur told Considine that "of all the campaigns of my life—20 major ones to be exact—the one I felt most sure of was the one I was deprived of waging."

The General then outlined an operation that would "have won the war in Korea in a maximum of ten days. The enemy's air would first have been taken out. I would have dropped between 30 and 50 tactical atomic bombs on his air bases and other depots in . . . Manchuria . . . Dropped under cover of darkness, they would have destroyed the enemy's air force on the ground . . . I would then have called upon 500,000 of Chiang Kai-shek's troops, sweetened by two U.S. Marine divisions. These would have been formed into two amphibious forces."

Landing north of the Red Chinese, the amphibians would have squeezed the enemy between themselves and the U.S. Eighth Army. "The enemy," so MacArthur told Considine, "would have been starved out within ten days."

Would Russia have intervened? Not, said MacArthur, over "an endless one-track railroad."

If the Red Chinese had had any intimations that MacArthur would be allowed to exercise his own judgment, would they have marched into Korea? This question, and not the "mistake" made at Wake Island, is what should be pondered in relation to Vietnam.

[From the Washington Post, May 29, 1967]

THE VIETNAM WAR: WILL CHINA ENTER?

(By Marquis Childs)

The tune is somewhat different but the words are the same. China, it is being said by men of authority, cannot or will not enter the war in Vietnam. These comfortable words are strikingly like the repeated assurances of 17 years ago when the United States was deeply committed in Korea and preparing to advance to the Yalu River, the boundary between North Korea and China. Moreover, certain of the same men then in authority have responsibility today for Asian policy.

Secretary of State Dean Rusk was at that time Assistant Secretary for Far Eastern Affairs directly concerned with Korea and China. William P. Bundy, currently Assistant Secretary for the Far East, was with the Central Intelligence Agency beginning in 1951. Dean Acheson, considered a strong supporter of Johnson Administration policy and from time to time a friendly counselor, was Secretary of State. Roving Ambassador W. Averell Harriman, who is the latest to utter reassuring words about China and North Vietnam, was a special assistant to the President.

The conviction widely held then was that the Chinese Communists, having only a short time before driven Chiang Kai-shek and the Nationalists off the mainland, were in no position to send a large force into Korea. They were too busy consolidating their position in a country laid waste by nearly 20 years of war.

The record shows that what the Chinese were saying in 1950 closely parallels what they say today. That record has been put together most impressively by Brig. Gen. Samuel B. Griffith, USMC (Ret.), in his new book, "The Chinese Peoples Liberation Army," one of a series sponsored by the Council on Foreign Relations. Translating Mao Tse-tung's basic work, "On Guerrilla Warfare," Griffith has made himself an authority on China since his retirement. He served in Peking before World War II.

He relates a conversation in August of 1950 between the then Indian Ambassador to Peking, K. M. Pannikar, and Gen. Nieh Jung-chen, acting chief of staff of the Peoples

Army. Pannikar told Nieh that America had the power to destroy China's industry and set the country back at least half a century. Nieh replied:

"We have calculated all that . . . They may even drop atom bombs on us. What then? They may kill a few million people. Without sacrifice a nation's independence cannot be upheld . . . After all, China lives on the farms. What can atom bombs do there?"

New Delhi passed the warning on to Washington where it was largely discounted. Gen. Douglas MacArthur, in command in Korea, based the continuing advance of his forces to the Yalu on what the author calls "one of the most egregiously wrong strategic intelligence estimates in history."

Premier Chou En-lai had said publicly that if American-United Nations forces crossed Korea's 38th parallel China would come in. This was put down to propaganda and bluff. Today Chou and Mao say that an American invasion of North Vietnam will bring China into the war. Pressure for that invasion persists both here and in Saigon despite assertions by the highest military and civilian authority that it will not occur. And when it comes to the consequences of nuclear attack, Mao has raised the stakes many times over, saying that China could take not several million but several hundred million casualties and still recover.

General Griffith also translated an ancient Chinese classic by Sun Tzu, "The Art of War," that is said to have greatly influenced Mao. Had American leaders been familiar with the classic works which have governed the Chinese conduct of war they might not have fallen into such a fog of self-deception as in Korea when the massive Chinese invasion sent American armies reeling with heavy losses. He quotes Sun Tzu as follows: "All warfare is based on deception. Therefore, when capable, feign incapacity, when active, inactivity. When near, make it appear that you are far away; when far away, that you are near."

The circumstances are quite different in North Vietnam than they were in North Korea, both strategically and psychologically, as they are in the China of 1967 as against the China of 1950. Yet as a recent British visitor to Washington with a long background in China put it after a brief stay in Canton this spring: "They are so utterly divided and disorganized that they are capable of an act of incredible folly." It would seem the smallest part of wisdom to try to avoid inviting that folly.

[From the Washington Post, May 9, 1964]

A COMMUNICATION

(By C. A. Willoughby, Major General, USA  
(Ret.))

Recent isolated editorials and fragments of daily columns unwittingly perpetuate a "malicious hoax" which is damaging to General MacArthur and the Eighth U.S. Army and represent a complete historical falsehood.

Like a Wagnerian "leitmotif" certain myths are apparently kept alive, over the years, in endless repetitions, viz:

On Intelligence: "... The War in Korea demonstrated anew his (MacArthur's) great talent as field commander. He was ill served by his own intelligence forces and compelled to conduct a hazardous retreat back to the 38th Parallel when Chinese "volunteers" poured in upon the U.N. Forces . . ."

Faulty intelligence, as alleged, did not force the Eighth Army to retreat. The enormous build-up of Chinese forces was known to both Washington and Tokyo, from 33 Red divisions (1950) to 73 Red divisions (1951).

MacArthur prudently retreated, in the face of overwhelming numbers, to stronger positions, with 8 American divisions, to gain space to bomb and delay the Chinese hordes



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which he was prohibited to do beyond the Yalu.

A discrepancy between 8 American divisions, the hard core of the U.N. assembly, and 33-73 Red divisions is a ratio of roughly 1 to 4 and/or 1 to 9. Eisenhower (in France) or Clark (in Italy) would not dream of risking such a discrepancy in any of their campaigns, and such adverse ratios are unheard of in modern war. The American G.I. is very good indeed—but he is no superman.

#### ON MACARTHUR

On MacArthur: "... The J.C.S. flashed back a warning to MacArthur by Telecon Message TT 3848 Oct. 4/50: The potential exists for Chinese Communist forces to openly intervene in the Korean War if U.N. forces cross the 38th Parallel." General MacArthur (allegedly) "ignored the warning and pushed on to the Yalu..."

The impression created by this "juicy item" is a cynical perversion of facts. It reads as if MacArthur had crossed the 38th Parallel en route to the Yalu, as a willful, personal act when in fact he advanced on U.N. and Defense Department orders.

On Oct. 6th, The United Nations General Assembly voted explicit approval for the crossing of the 38th Parallel, to exploit MacArthur's smashing defeat of the North Korean Communist army. The U.N. decision was then spelled out in detailed orders by the Pentagon: "... The destruction of the North Korean armed forces ... To conduct military operations North of the 38th Parallel ... U.N. Forces not to cross the Manchurian or U.S.S.R. borders ... No non-Korean ground forces will be used (in these areas)..."

And then the cloven: "... Support of your operations will not include air or naval action against Manchuria (we were at war with China!) or against U.S.S.R. territory (a red-herring, since we were not at war with Russia!..."

#### "ALLEGED WARNING"

As regards "alleged warnings" etc., both Washington and Tokyo were in daily touch for the exchange of current information. Both sides knew precisely what to expect. Tokyo issued a "Daily Intelligence Summary," a sort of military newspaper that was distributed daily to all commanders and staffs. That means thirty separate reports per month. In a limited space, I only list a few condensed highlights and leave it to the average reader to draw his own conclusions, viz.:

June 6: Red China can deploy considerable strength to assist the Red North Koreans. Manchurian estimates: 115,000 regulars and 374,000 militia.

July 8: Chinese troops have arrived in the Antung-Yalu area.

Aug. 15: The build-up of Chinese Communist forces in Manchuria is continuing. China has agreed to furnish military assistance to North Korea.

Aug. 27: High level meeting in Peking. Chinese ordered to assist North Korea. Lin Piao (Fourth Field Army) to command Chinese forces. Indo-China to be invaded. Liu Po-Cheng (Second Field Army) to command (in that area). Soviet officer designated to command combined forces.

Aug. 31: Troop movements from Central China to Manchuria (considered preliminary to enter the Korean theater. Manchuria estimates: 246,000 regulars (and increase) and 374,000 militia.

Sept. 8: If success of the North Korean Red army doubtful, the Fourth Chinese Field Army, (under General Lin Piao) will probably be committed.

Oct. 5: All intelligence agencies focus on the Yalu and the movements of Lin Piao. The massing at Antung and other Yalu crossings appear conclusive. This mass comprises 9/18 divisions organized in 3/9 corps.

Oct. 14: The fine line of demarcation be-

tween "enemy intentions" (Peking) and "enemy capabilities" (along the Yalu), to be ascertained in diplomatic channels, the State Dept. and/or C.I.A., and beyond the purview of local, combat intelligence. (As regards enemy capabilities) the numerical troop potential in Manchuria is a fait accompli: A total of 24 Red divisions are disposed along the Yalu, at crossing points.

Oct. 28: Regular Chinese forces in Manchuria now number 316,000 (an increase) organized into 34 divisions and 12 corps (Map A-3 att.). The bulk of these forces are in position along the Yalu River. They assembled in complete safety since MacArthur's air force are forbidden to cross the border.

#### "LEAKING" IS NOTED

Indicative of the implacable hostility of certain segments of the Pentagon, certain private channels are "leaking" J.C.S. messages etc. that are obviously fragmentary and out of context. The result is a calculated distortion of history viz:

Against the background of the Oct. 14th item (enemy intentions) MacArthur is quoted (out of context) as "advising the J.C.S. against hasty conclusions 'that the Chinese' would employ their full potential military forces" (Nov. 4).

Washington had been fully "advised" of the Red potential (and for many weeks). The point here is that the J.C.S. did nothing about it. They did much worse: They created a "sanctuary" along the Yalu, permitting 33 Red divisions to leisurely pitch their tents along the river, from August to November.

On Nov. 5th, within 24 hours, MacArthur ordered the bombing of the Yalu bridges (under technical restrictions), but true to form, the J.C.S. are reported "as not understanding this action" etc. They thus maneuvered MacArthur into a strategic "impasse"; His eight (8) battered divisions were taken on 3- to A-times the number of Red divisions, evidently hoping for a tactical miracle. They did not place any such burden on Eisenhower in France, Germany or Italy.

General Collins was dispatched to Tokyo—to investigate—as if Washington had not been aware, for months, the Chinese in Manchuria.

#### COMMENT BY COLLINS

Collins is reported as commenting "on MacArthur's emotional state." He could have done something infinitely more constructive: He could have drawn certain inescapable strategic conclusions and passed them on to his coconspirators in Washington, viz:

1. That Red China was at war with the United States.
2. The discrepancy in divisional totals (1-3 and soon 1-9) placed an intolerable and risky burden on the American forces.
3. No such discrepancies were permitted in the European Theater.
4. The employment of Chiang Kai-shek's forces.
5. All-out aerial bombing against Manchurian bases.
6. This would have certainly slowed down the Chinese hordes.
7. All-out U.S. carrier strikes against the flanks of the Chinese, from Antung to Shanghai.
8. Once a full-scale war starts, there is no substitute for victory.

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. GONZALEZ) is recognized for 10 minutes.

[Mr. GONZALEZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

#### HALF FARES FOR SENIOR CITIZENS—ANOTHER WAY OF PROVIDING JUSTICE FOR SENIOR CITIZENS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York (Mr. FARBSTAIN) is recognized for 20 minutes.

Mr. FARBSTAIN. Mr. Speaker, I have today introduced H.R. 17744, a bill to provide senior citizens with half fare United States, including airplanes, trains, buses, and all local transportation during nonpeak hours.

Senior citizens are physically less mobile and thus need public transportation more than other age groups; yet they are also less economically able to afford such transportation. The result is that many senior citizens are forced to forego a richer life because they cannot afford such transportation.

This legislation would provide half fares in a manner similar to the airlines youth fares, except that elderly persons would be able to reserve their seats in advance.

Half fare rates during nonpeak periods would enable senior citizens to escape the loneliness of exile in one's own home and permit them to get away from their daily routine once in a while, and visit friends or recreational facilities away from their homes. It would also enable underutilized transportation facilities to increase the number of passengers they carry and thus increase revenue. In spite of the fact that it would be best for them, as well as the senior citizens, most transportation companies have refused to adopt half-fare rates.

This is but one of many examples of the lack of concern demonstrated by large sectors of society toward our elderly persons. There is a lot of talk about the silent majority. Well, I believe our senior citizens are the forgotten majority. Their problems go unheeded, or if they are talked about, it is only in piecemeal terms.

As a Member of Congress, I have placed a very high priority on securing justice for senior citizens. I have introduced, and have been fighting to obtain the enactment of legislation to provide a sizable increase in social security benefits, to secure a minimum monthly benefit of \$120 for an individual and \$180 for a married couple, and to obtain automatic increases in benefits to compensate for any increase in the cost of living.

I have also introduced legislation to make other badly needed reforms in the system, including elimination of the limitation on earnings for social security recipients, elimination of the current practice of deducting from veterans and other Government pensions any increase an individual receives from social security, extension of eligibility under the Prouty amendment to retired teachers, and the extension of medicare to include other badly needed services such as prescription drugs and home maintenance worker services.

I am pleased that the social security bill passed today by the House of Representatives provides reforms in a number of these areas, and that my efforts may

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have in part contributed to what is in the bill. But I must admit that I am not totally satisfied with the bill. It provides a 5-percent increase in benefits. I believe this is totally inadequate. What is needed is a 35-percent increase. Nor is a minimum payment established. The bill provides for an increase in the limit on earnings. I believe the limitation should be abolished altogether or raised far above the limit provided in the bill. The bill also provides for the inclusion of new services under medicare but leaves out home maintenance workers services or prescription drugs.

I am particularly pleased that the bill, as passed, included an automatic cost of living provision. This is something I voted for and have long advocated.

Mr. Speaker, I intend to continue fighting until the Congress passes legislation that will do justice to our senior citizens.

The text of the Senior Citizens Transportation Act of 1970 follows:

## H.R. 17744

A bill to prohibit common carriers in interstate commerce from charging elderly people more than half fare for their transportation during nonpeak periods of travel, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, this Act may be cited as the "Senior Citizens' Transportation Act of 1970".*

## TRANSPORTATION IN INTERSTATE COMMERCE

SEC. 2. (a) Notwithstanding any other provision of law, no common carrier for hire transporting persons in interstate commerce shall, during nonpeak periods of travel, charge any eligible elderly person more than half the published tariff charged the general public in connection with any transportation which is requested by any such person.

(b) In any case in which a common carrier can show that it incurred an economic loss during any calendar year solely because of the requirement imposed by subsection (a), such carrier may apply to the head of the Federal agency having jurisdiction over the filing and publishing of the tariffs of such carrier for Federal financial assistance with respect to all or part of such economic loss. The head of any such Federal agency is authorized to pay to any such carrier (1) an amount not exceeding one-half the difference between the published tariff and the tariff charged elderly persons during the calendar year covered by the carrier's application, or (2) an amount not exceeding the aggregate of the economic loss of the carrier claimed under such application, whichever is less.

(c) The head of each such Federal agency is authorized to prescribe such regulations as he may deem necessary to carry out the provisions of this section, including but not limited to the defining of nonpeak periods of travel and regulations requiring uniform accounting procedures.

(d) The head of each such Federal agency is authorized to establish a commission of elderly persons to advise him in carrying out the provisions of this section.

(e) As used in this section, the term "eligible elderly person" means any individual sixty-five years of age or older, who is not employed full time.

## TRANSPORTATION IN INTRASTATE COMMERCE

SEC. 3. Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(d) In providing financial assistance under this Act, the Secretary shall give preference to applications made by States and local public bodies and agencies thereof which

will adopt (or require the adoption of) specially reduced rates during nonrush hours for any elderly person in the operation of the facilities and equipment financed with such assistance, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise. As used in this subsection, the term 'elderly person' means any individual sixty-five years of age or older."

## ALABAMA'S ALLGOOD

(Mr. BEVILL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BEVILL. Mr. Speaker, occasionally we in America are blessed with the services of men, who, by their vision, hard work, and love of country, leave a valuable legacy for future generations. Such a man is Miles C. Allgood, the most distinguished former Congressman of Mentone, Ala.

Often, Mr. Speaker, we tend to forget the work of dedicated public servants. I think it is good for us to stop from time to time and say thank you to these individuals.

I would like to insert in the RECORD at this time a letter written by Mr. J. Frank Machen, of Mentone. This letter appeared recently in the Voice of the People columns of the Birmingham News and spotlights the outstanding career of my good friend, the Honorable Miles C. Allgood. I hope every Member will take the time to read this interesting letter about a great American:

## ALABAMA'S ALLGOOD

We have a great man among us. Congressman Miles C. Allgood has returned to his home in this mountain village after spending the winter in the Southwest.

This remarkable man, now in his physically active and mentally alert nineties, reminds one favorably of Mr. Chief Justice Holmes, who kept up an energetic life and a voluminous correspondence far into his nineties.

He calls to mind the Roman, Cato, who as Cicero reminds us, learned to read Greek after he was ninety so as to enjoy the classics in their original language.

Congressman Allgood is one of Alabama's historically great men.

The public memory is short and needs an occasional jogging.

As representative to the United States Congress from this district for many years, Mr. Allgood is the man who first got President Roosevelt interested in coming to Alabama to see the possibilities of what is now the Tennessee Valley Authority.

He rode with the president in his private car, pointing out the potential spots for developing hydro-electric power, which has brought prosperity to this whole region.

In future histories it will be pointed out that by creating TVA in this area, Congressman Allgood did more than any other man to introduce and develop hydro-electric power to America. He was chairman of the committee which provided for the great Boulder Dam. Also, he made the speech on the site of the present Boulder Dam that turned the tide of committee opinion in favor of its construction.

Not only by his good works but also by his long and eventful life, Congressman Allgood has proven himself to be a heroic man.

We should be reminded occasionally—in The Hon. Miles C. Allgood, M. C., we have a great man among us!

J. FRANK MACHEN.

MENTONE.

## WORLD RESOURCES SIMULATION CENTER

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, decisionmaking to utilize resources for the betterment of our people and of people in other lands entered a new era with the advent of satellites and computers. Satellites which gather information on natural and manmade resources combined with computers which store and integrate this data for countrywide and worldwide peaceful development, provide the opportunity to make the United States and the world work better for human inhabitants.

My bill which I introduced on May 6, H.R. 17467, authorizes the National Aeronautics and Space Administration to make grants for the construction and operation of a World Resources Simulation Center to make available to Federal, State, and local agencies and to private persons, organizations, and institutions such information, which they will find valuable and useful in their planning and decisionmaking.

Significantly advanced comprehensive information gathering by satellite and human intelligence, well coordinated by computer and displayed visually for study, is a chief aim of this legislation.

The association at one computer center of pertinent satellite-obtained information with statistics and other data already available through Government and private sources, and its intermix and visual presentation to decisionmaking Government leaders in the executive and legislative branches, Federal, State, and local, will permit more intelligent use of national and world resources.

Dissemination, study, and use of this information by industry, commerce, labor and individuals, as well as by educational, health, conservation, and civic organizations, is contemplated as a contribution to a healthier society. University, college, and school work already begun in this field will receive strong impetus and strengthen constructive approaches to improving mankind's status, at the same time providing further evidence of U.S. dedication to peaceful resolution of world ills.

The natural, physical, and human resource data thus made available, will expand the decisionmakers' awareness of all possible alternatives for resource utilization, and can lead to better solutions and clearer directions in achieving national goals.

The spectacular achievement of sending human beings on manmade satellites to circle the earth's moon satellite and twice placing these humans on the moon, required a scientific development and a coordination and deployment of men and machines, with a dependence on computer technology on a worldwide scale of incalculable proportions. The National Aeronautics and Space Administration has demonstrated that many contributions of immense value to our improved health and well-being flow from the Nation's space program. One of these benefits now possible for the



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under an open rule with 1 hour of debate.

Wednesday there is scheduled for consideration H.R. 17755, the Department of Transportation appropriations bill for fiscal year 1971.

This announcement is made subject to the usual reservation that conference reports may be brought up at any time and that any further program will be announced later.

We also advise the membership again that the Memorial Day recess will begin at the close of business Wednesday, May 27, 1970, and will last until noon on Monday, June 1, 1970.

**DISPENSING WITH CALENDAR  
WEDNESDAY BUSINESS ON  
WEDNESDAY NEXT**

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. VANIK). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

**ADJOURNMENT OVER TO MONDAY,  
MAY 25, 1970**

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

**PERMISSION FOR COMMITTEE ON  
THE DISTRICT OF COLUMBIA TO  
FILE CERTAIN REPORTS UNTIL  
MIDNIGHT FRIDAY, MAY 22, 1970**

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may have until midnight Friday, May 22, 1970, to file certain reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

**TRIBUTE TO THE HONORABLE JOHN  
J. ROONEY OF NEW YORK**

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, all of us have been made aware of the bitter opposition which some of our colleagues are encountering in the current primary elections. Few of us ever get so callous that we can shrug off the acrimony or totally ignore the unwarranted criticism or false charges which are hurled against those of this body whom we have long admired and respected.

One of our most distinguished senior Members is presently being subjected to a particularly bitter attack. While it is my policy not to engage in primary contests, after reviewing the particular sit-

uation facing my distinguished colleague, the Honorable JOHN J. ROONEY, of New York, I cannot remain silent and passively watch the unfolding of a severe injustice.

Our good friend JOHN J. ROONEY, who has so ably represented the people of the 14th Congressional District for practically 14 consecutive terms, is now facing strong opposition, but not from the voters who have elected and reelected him for 26 years. His opposition comes from a small but highly vocal and well-financed group whose members have deliberately ignored the facts in JOHN ROONEY's unblemished record covering his long years of service in this body. They have ignored the leadership he has shown in securing the enactment of much of our present social welfare and humanitarian legislation. They ignore the prestige which JOHN ROONEY commands as a lawmaker—a man honored as one of America's statesmen both here and abroad.

This group chooses to ignore the record which JOHN ROONEY has made in behalf of all the people in the United States, but most particularly in behalf of the people of his district.

Mr. Speaker, it would be presumptuous for me to attempt to defend our good friend from Brooklyn, for he is, himself, his own best defender. His public record is his most convincing defense. Hopefully, the voters in his district will review that record instead of heeding the distorted statements being used in an effort to defeat him.

We who have worked side by side with JOHN ROONEY know full well of his undivided loyalty to his friends and neighbors. We know even better than they the extent to which their Congressman devotes his full time to the job of representing them. We are well aware of his almost perfect attendance record for a period of time which exceeds the age of some of our newer Members.

But, Mr. Speaker, we are even more aware of JOHN ROONEY's stand on the great issues with which the Congress has had to cope. This man came to these halls as a freshman Congressman in the cyclonic atmosphere of the final months of World War II. He cut his legislative "eye teeth" on the problems which faced the world as an aftermath of war. He developed leadership in alleviating the miseries of the millions of refugees and displaced persons who were stranded and homeless. He was in the vanguard of our Members who sought to help give relief to and bring about the rehabilitation of both our war-torn allies and our equally crippled erstwhile adversaries.

I am particularly grateful that through JOHN ROONEY's efforts, Italy was included among the first nations receiving the life-giving help of this country—not only material help to feed the hungry, to heal the sick and suffering, to clothe the shivering and to house the homeless—but the economic aid and political support to permit the development of a strong and independent nation. This reborn nation in which so many of the kinsman of Americans still reside and the able leadership of this restored state have seen fit to honor JOHN ROONEY on several occasions for the suc-

cessful efforts he made year after year in their behalf.

The people of Italy and those of us of Italian birth or lineage are grateful, too, for JOHN ROONEY's tireless efforts to bring about new immigration legislation which provided among other improvements the opportunity for immigrant families to be reunited.

But, Mr. Speaker, let us not forget that JOHN ROONEY's passion for helping the homeless, the sick, the poor, and the suffering related not only to the victims of war abroad, but to our own people here at home as well. Let us not forget that his ardor in condemning Red Russia for her ruthless steal of the Baltic States and her enslavement of half the free world was not spent entirely on these pathetic people overseas.

JOHN ROONEY's record will show that he made equal efforts to help the people of America and the people of his district. He was one of the first and most forceful proponents of civil rights measures to eliminate our own types of economic enslavement and political bondage.

In all likelihood, JOHN ROONEY's own childhood experience in growing up in his district with neighbors of all nationalities, creeds, and colors gave him not only the deep understanding but the insatiable urge to see that all mankind should have the full blessings of true liberty and independence.

Every workingman in Brooklyn and his family can join with workers throughout the Nation in gratitude for the strong support their Congressman has given over the years for the enactment of laws to protect workers' rights and improve working conditions. No man in Congress can boast a more enthusiastic endorsement than that given to JOHN ROONEY year after year by the AFL-CIO.

The people of Brooklyn can be proud of Representative ROONEY's record for he has been a leader in expanding social security benefits, in obtaining medicare, in fighting crime, in seeking environmental improvements, in obtaining more jobs and job training, in securing better housing, and above all, in seeking world peace—a peace with honor and with justice for all.

Yes, Mr. Speaker, the voters of Brooklyn are indebted to JOHN J. ROONEY for his 26 years of dedicated and distinguished service, for the millions of dollars of material benefits to their district, and for his continuing personal concern for them.

We in the Congress are grateful for JOHN ROONEY's warm friendship, for his brilliant leadership, and for his constant cooperation.

We are confident that his unsullied record, commonsense, and the truth concerning him will prevail in the upcoming primary election in New York.

**VIETNAM**

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKINSON. Mr. Speaker, it was my duty as a member of the Committee

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on Armed Services to go to Vietnam recently. I returned only yesterday.

Our trip took us first to CINCPAC Headquarters in Hawaii, where we were briefed in detail by Adm. John McCain and his staff at CINCPAC Headquarters.

We then went to Saigon, where we talked to Deputy Ambassador Samuel Burger, Ambassador Bunker being in the United States.

We were given a very detailed and intimate briefing by General Abrams and his staff in Vietnam. We discussed in considerable detail the sweep along the Cambodian border to protect our forces and other friendly forces in South Vietnam.

I am most pleased to report that the operations are going better than expected. In addition to the thousands of tons of enemy supplies and arms captured, one of the biggest dividends to come to us is the tremendous boost in morale of the Armed Forces now serving in South Vietnam, both our own and the South Vietnamese.

The latest military figures updating the Cambodian operations verify the reasons for this tremendous boost in troop morale. Cumulative data as of today, May 21, 1970, reveals the following:

Enemy killed .....	7,177
Detainees .....	1,759
Individual weapons captured .....	10,019
Crew-served weapons captured .....	1,640
Rice (tons) .....	3,701
Rice (man months) .....	162,844
Rocket rounds captured .....	18,113
Mortar rounds captured .....	20,526
Small arms ammunition captured .....	11,647,224
Land mines captured .....	1,894
Bunkers destroyed .....	5,287
Vehicles destroyed or captured .....	220

The above figures are tentative cumulative results as reported by Headquarters, MACV.

Not only is there a tremendous upsurge in the morale of the South Vietnamese themselves, but there is a tremendous upsurge in their own self-confidence.

Mr. Speaker, no matter how many arms we send and no matter how much training we give to the South Vietnamese, the so-called Vietnamization program is doomed for failures if we cannot properly motivate these people, if they do not have the courage of their own convictions, and if they do not believe they are capable of defending themselves.

I am very pleased to report, Mr. Speaker, that, as a result of an on-site inspection and discussion with those who are most intimately acquainted with and involved in the Vietnamization program, I believe that it is ahead of schedule, and is already paying large dividends. As a matter of fact, I think the South Vietnamese are doing better than even they thought they could do. I am convinced that when the time comes for the American troops to be fully withdrawn, they will certainly be in a better position to fill the breach because of the sweep now going on along the Cambodian border.

#### LIQUIDATION OF SOUTH VIETNAMESE PREDICTED

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, there are those in this country who have scoffed at the statement of the President and others that if the Communists took over South Vietnam there would result the murder of many thousands of South Vietnamese civilians. Robert G. Kaiser, however, reports from Saigon to the Washington Post in an article printed on Friday, May 15, that a leading U.S. Government expert now contends that the Vietcong would liquidate some 3 million people if it won decisively in Vietnam. Douglas Pike wrote a paper describing what happened in Hue when 5,800 people were murdered there and described the process as occurring in three phases. First, key individuals were murdered in order to facilitate the Communist takeover. Second, when they thought they could stay, whole groups and classes of people who would hinder the creation of a new revolutionary social order were killed. Finally, when it became clear that they had to leave, many others were murdered in an attempt to destroy all of the witnesses to what had happened. Mr. Pike contends that if the Communists should take over the country, they, in like fashion, will destroy whole classes and groups of people amounting to about 3 million South Vietnamese. To students of history this is no surprise, since this is a usual and normal Communist tactic. Heaven only knows how many millions of people have been destroyed in genocidal proportions murdered by Communist governments in our time. This underlines the fact that we must see this battle through. If we were precipitously to withdraw, it would not only mean a threat to the lives of 1,500 American prisoners of war and to soldiers who are in the process of being withdrawn, but literally several millions of South Vietnamese will be murdered as a consequence.

Mr. Pike's article follows:

VC WOULD LIQUIDATE 3 MILLION IF IT WON.  
U.S. EXPERT CONTENDS  
(By Robert G. Kaiser)

SAIGON, May 14.—One of the U.S. government's leading experts on the Vietcong has written a paper predicting that "if the Communists win decisively in South Vietnam, all political opposition, actual or potential would be systematically eliminated."

The author of the paper is Douglas Pike, who has written two books on the Vietnamese Communists and is now a United States Information Service officer in Tokyo. He wrote "The Vietcong Strategy of Terror," a 125-page monograph earlier this year. The U.S. mission here plans to release it soon.

Pike's work seems to be a rejoinder to those who have mocked suggestions that the Communists would wipe out thousands of their opponents if they took over South Vietnam. Pike says that if the Communists win the war here decisively ("and the key word is decisively, he writes), the result will be "a night of the long knives" to wipe out all conceivable dissidents—perhaps 3 million persons.

Pike contends the massacre would go on in secret, after all foreigners had been expelled from Vietnam. "The world would call it peace," Pike writes.

He cites a list of 15 categories of citizens who would be murdered, saying such a list of categories is often found in captured documents. Pike notes a statement by Col. Tran Van Duc, one of the highest-ranking Communists ever to defect to the Saigon regime, that "there are 3 million South Vietnamese on the blood debt list."

Pike's predictions are the most dramatic aspect of his paper. Most of it is devoted to an analysis of the Vietcong's present and past uses of terror. A major section analyzes the 1968 Massacres at Hue.

"It would not be worth while nor is it the purpose of this monograph to produce a word picture of Vietnamese Communists as Frendish fanatics with blood dripping from their hands," Pike writes. Rather, he says, he wants to describe how the Vietcong use and justify terror as a crucial part of their war strategy.

"If there still be any at this late date who regard them as friendly agrarian reformers," Pike writes, "nothing here (in his paper) could possibly change that view."

Current Vietcong doctrine, Pike contends, calls for terror for three purposes: to diminish the allies' forces, to maintain or boost Communist morale, and to scare and disorient the populace. He says the enemy seems to be moving more and more toward a terrorist strategy as part of a new kind of protracted war. (Official government terrorist statistics show a sharp increase in kidnappings, assassinations and other terrorism in recent months.)

In central Vietnam, Pike writes, Vietcong units are given terrorist quotas to fulfill. As an example, he cites intelligence information that special Vietcong squads in parts of two provinces were told to "annihilate" 277 persons during the first half of 1969.

In the most detailed analysis of the killings at Hue yet published, Pike writes that "despite contrary appearances, virtually no Communist killing was due to rage, frustration or panic during the Communist withdrawal" from Hue, which the Vietcong held for 24 days in February 1968.

"Such explanations are often heard," Pike continues, "but they fail to hold up under scrutiny. Quite the contrary, to trace back any single killing is to discover that almost without exception it was the result of a decision rational and justifiable in the Communist mind."

According to Pike's analysis of the Hue massacres, the Communists changed their minds twice after seizing the city on Jan. 31. At first, Pike writes—he claims, captured documents show this—the Vietcong expected to hold Hue for just seven days.

During that first phase, Pike says, the Vietcong purposefully executed "key individuals whose elimination would greatly weaken the government's administrative apparatus. . . ."

After they held on more than seven days, Pike's theory continues, the Communists decided they would be able to stay in Hue indefinitely. Prisoners, ralliers and intercepted messages at the time confirm this, according to Pike.

In this euphoric mood, he writes, the Communists set out to reconstruct Hue society, eliminating not just specific individuals, but whole categories of citizens whose existence would hinder creation of a new revolutionary society. Perhaps 2,000 of the estimated 5,800 persons killed at Hue were slain during this second phase, Pike suggested.

Eventually, Pike continues, the battle turned against the Communists in Hue and they realized they would have to abandon

the city. This realization led to phase three, Pike writes: "elimination of witnesses." The entire underground Vietcong structure in Hue had probably revealed itself by this time, and now had to protect itself by eliminating many who could later turn them in to government authorities, Pike theorizes.

# TRIBUTE TO WO STEPHEN C. CHASIN

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKBURN. Mr. Speaker, I can think of no more meaningful, nor more sorrowful task this day than to pause to pay tribute to a young man from my congressional district who lost his life in Vietnam last week.

WO Stephen C. Chasin is the son of Mr. and Mrs. Murray M. Chasin of Decatur, Ga. He attended Avondale High School, where he was a star athlete—active in wrestling, track, and varsity football. He graduated from Avondale in 1967, and enlisted in the Army in the fall of 1968.

He had a number of physical defects which could have kept him from going to Vietnam, but he felt it was his duty to go and he had served as a helicopter pilot in Vietnam since January of this year.

Steve told his family that as a child, he thought war would be exciting since playing soldier was so much fun then. Recently, he described the horrors of war as he saw it first hand in a tape which he sent to his family. He spoke of the close buddies he had seen wounded and killed. He expressed his disappointment in the student protests going on at home, and said that if the demonstrators could be in Vietnam for 1 week, he could tell them, and show them what it was all about.

Because of a number of close calls, Steve felt that he could survive any future battles, and almost his last words on the tape promised his family and his girl that he would be all right and make it home.

Fate had decreed otherwise, and Stephen Chasin died last week in a helicopter crash.

I cannot help but contrast the all too short life of Steve with the action of the student protestors we have been seeing in such numbers on the campuses and in the streets, and those who have visited my office by the dozens during the past 2 weeks. For those young people who have a sincere objection to war and killing as a matter of conscience, I feel compassion. But for those who would use moral objection as a cloak for cowardice, I have contempt—especially when I remember boys such as Steve who have given their lives for what they considered part of their duty as American citizens.

With all my heart, I feel that Steve Chasin is the typical American boy, not those who would tear down our Republic—its basic principles, its institutions, and our flag.

It is a small wonder that Mr. and Mrs. Murray Chasin are proud of their son, proud of the way he lived, and devotion to duty and country at the time of his death. But what can be said—what words

of comfort can one give to this sorrowing family? Even in their tragic loss, may his parents know that those in positions of public trust are deeply aware of the immeasurable debt we owe to Steve, not only for his life, but for the courageous way in which he lived. May that knowledge bring some small measure of God's peace, "which passeth all understanding."

## REMARKS OF THE HONORABLE EDWARD M. CURRAN, CHIEF JUDGE, U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to bring to your attention, by request of Mr. Leo Anderson, chairman, VFW Loyalty Day Committee, the following remarks of the Honorable Edward M. Curran, chief judge, U.S. District Court for the District of Columbia.

I submit the program, and the remarks follow:

### LOYALTY DAY, MAY 1, 1970

(Sponsored by the District of Columbia Department, Veterans of Foreign Wars of the U.S.A. and its Ladies Auxiliary)

#### PROGRAM

#### Twelve noon

Toastmaster: A. Leo Anderson, Chairman, V.F.W. Loyalty Day Committee.

Salute to colors: David G. Hungate, Captain, V.F.W. National Honor Guard.

Invocation: Eli Cooper, Past Commander, D.C. Department V.F.W.

Introduction of guests: A. Leo Anderson, Chairman, V.F.W. Loyalty Day Committee.

#### Lunch

Loyalty Day proclamation: Gervasio G. Sese, Commander, D.C. Department V.F.W.

Principal address: Hon. Edward M. Curran, Chief Judge, United States District Court for the District of Columbia.

Award presentation: Paul E. Wampler, Jr., Member, National Council of Administration.

Flag presentation: Mrs. Virginia Dickerson, President, D.C. Department, V.F.W. Ladies Auxiliary.

Benediction: Eli Cooper, Past Commander, D.C. Department V.F.W.

Salute to colors: David G. Hungate, Captain, V.F.W. National Honor Guard.

### BIOGRAPHY OF THE HONORABLE EDWARD M. CURRAN

Chief Judge Edward M. Curran, was born in Bangor, Maine, May 10, 1903; son of Michael J. and Mary A. Curran; married Katherine C. Hand (Deceased) June 6, 1934; married Margaret V. Carr, December 30, 1963. Judge Curran's four children are Ellen Curran Monahan, Mary Catherine Curran, Ann Curran Schmidlein and Edward M. Curran, Jr.

Judge Curran is the recipient of the following degrees: Bachelor of Arts from the University of Maine, Juris Doctor from The Catholic University of America, and Honorary Doctor of Laws from The Catholic University of America.

He was admitted to the Bar of the United States District Court for the District of Columbia in 1929 and subsequently to the Bars of the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States. He engaged in the private practice of law with

the firm of King and Nordlinger until 1934, when he was appointed Assistant Corporation Counsel for the District of Columbia. From 1936 to 1940, he served as a judge of the Police Court of the District of Columbia (now the Criminal Division of the District of Columbia Court of General Sessions).

In 1937 he was the recipient of the Distinguished Service Award by the Junior Chamber of Commerce of Washington, D.C.

From 1940 to 1946 he served as United States Attorney for the District of Columbia. In 1941 a Resolution stating, "that the Board of Directors of The Bar Association of the District of Columbia acknowledges with gratitude and deep admiration the fine devotion, the distinguished and outstanding services to the Bench, the Bar and the public, by the Honorable Edward M. Curran, as expressed by his wise and efficient administration of the Criminal Law", was presented to him by the Board of Directors of The Bar Association of the District of Columbia.

From 1946 until the present he has served as a judge of the United States District Court for the District of Columbia, and in November, 1966, he became Chief Judge.

On November 18, 1961, he received the 1961 Alumni Achievement Award in the field of law, awarded by the Board of Governors of the Alumni Association of The Catholic University of America. In April, 1967, he received the Judicial Award of the Association of Federal Investigators for his outstanding contribution to the administration of justice. Also in 1967, he was the recipient of the "Big M" Award of the Maine State Society of Washington, D.C. for his devotion to community service and his accomplishments in regard thereto.

Judge Curran has served as Instructor of Law at The Catholic University of America School of Law, Professor of Law at the Georgetown University Law Center, Instructor of Law at Columbus University Law School, and Instructor of Debating at Trinity College. He was formerly First Vice President of the Federal Bar Association. He is a member of various organizations, including the American Bar Association and The Bar Association of the District of Columbia, Phi Kappa Fraternity, Gamma Eta Gamma Legal Fraternity, John Carroll Society, Merrick Boys Camp, Metropolitan Police Boys Club, and The Friendly Sons of St. Patrick. He is Vice President of the Benedictine School for Exceptional Children, Ridgely, Md.; a member of the Advisory Board of The Catholic University School of Law; and an honorary member of the Notre Dame Club of Washington and the Providence College Club of Washington.

It is with a deep feeling of pride that the District of Columbia Department of the Veterans of Foreign Wars of the United States takes in presenting the 1970 Loyalty Day Award Plaque to Chief Judge Edward M. Curran, "In recognition of his continuous outstanding judicial leadership exemplifying the principles of justice and human rights."

### REMARKS OF JUDGE CURRAN

I am very happy to be here today and to address the Veterans of Foreign Wars on Loyalty Day—a day that is set aside on May first of each year as a special day for the recognition of the heritage of American freedom.

Our real hope in America today is for national unity. National unity is paramount not only in the United States but in every democracy. Our forefathers decreed that this shall be "one nation, indivisible, with liberty and justice for all". They further proclaimed, "We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness".

There were few debunkers in those days. The school of sociological jurisprudence,



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with its nebulous bases and shifting norms of human wants had not as yet made its appearance to confound and confuse them. Freud had not yet appeared to tell them about their ego and their super ego. Marx, with his gospel of the economically determined man, had yet to make his appearance and Lenin was not yet on the earthly scene to proclaim, "We deny all morality taken from supernatural conceptions".

Unlike us, they not only knew what they were doing, but where they were going. They were a naive group of men, these fashioners of our American commonwealth. Free will to them was not the instinct of the herd or a mass illusion, and simple as they were, they were convinced that there was a moral order to which all man-made law must conform.

They were one with the cultural and intellectual tradition of the West, and upon that foundation they reared the structure of our American democracy.

It is our task, therefore, inherited from these founding fathers, to create on this continent, a nation of free people, strong enough to withstand tyranny and oppression; wise enough to educate our children in the ways of truth, and broad enough to accept as a self-evident truth the right of every human being to worship God according to the dictates of his own conscience.

This country is unique in that it has from the time of its discovery been the haven of the unfortunate, the oppressed, and the persecuted. For years people of every nationality, of every religion, of every race, have willingly and freely come to our shores in search of shelter and solace from the economic, political, and religious intolerances of other governments. America, the melting pot, has welcomed them with outstretched arms. We became a great nation because of our open-hearted welcome to the outraged and oppressed. We shall remain a great nation only by protecting ourselves against those people who would destroy such tolerance. In comparison with all the other nations of the world, the United States stands preeminent. In the genius of our people, in the productivity of our soil and in the vast store of our natural resources, we possess the elements which are bound to provide a high standard of living for all the citizens of this nation. The accomplishments of the past provide us with adequate reasons for confidence in the future.

America is truly one nation with many nationalities. It is a nation dedicated to inspired principles for which people have been willing to sacrifice and suffer; a democracy of cultures as well as a free and tolerant association of individuals; a country in which there is present the values and ideas, the arts and sciences, the laws and techniques of the people of every civilized tradition.

The United States was founded by individuals of Old World nationalities who shared the common love of freedom and who were motivated by the intense desire to establish this freedom into a government for the people. It is our duty to see that this government endures and perpetuates.

The American people have always been concerned with the flagrant violations of the rights of peaceful little nations; the cruel and bitter persecution of God-fearing men, women and children because of their religion, race or political opinions. The vile and barbarous deeds which were inflicted upon democratic peoples of the Old World represent an attack against everything that we hold dear—an attack against international good faith, against religion, against political freedom and against civilization itself.

We cry for peace, and there is no peace, for mankind, like Esau of old, has sold its birthright for a mess of pottage. We have, for the most part, repudiated the divinity of our origin and our destiny—the cultural traditions that bind us to the past. We glory

in our achievements in the field of science. We possess in our libraries the accumulated wisdom of the ages, and yet, instead of ushering in Tennyson's fabled thousand years of peace, we have raised the curtain on the prelude to the very pit of hell itself.

The last world conflict was not only a struggle of armaments. It was not the revolution of a free people to determine a change in their government, but rather was it the spawn of that atheistic culture and philosophy that stemmed from Marx and Engel, the matriarch of all other "isms" that have sprung from generations of irreligion, the repudiation of fundamentals, false liberalism and the pursuit of the cult of pleasure—a conflict that not only threatened our peace but our very way of life by those who openly proclaimed that there was no God but Caesar, and that the altar of the omnipotent state was the only shrine before which every head must bow and every knee must bend.

We must relegate to oblivion all the destructive force of the many "isms" that are being promoted by those who seek to destroy our democratic institutions. We must recognize and we must fight for only one "ism", and that is Americanism.

And fight we did—for everything contained in the term "Americanism." No group of men know better than you that America assembled her full might and threw it with all her fury against mankind's enemies. The invasion of the Continent represented the hopes, the fears, and the sacrifices of millions of people whose hearts were steeled for the final encounter with the enemy. From the North, the South, the East and the West, the Nazis and their shackled minions were driven to their inevitable doom. All of the arms used in the fight against the Axis, both in Europe and in the Pacific, would not have been available had it not been for the sense of duty and fidelity which is inherent in every true American. The ships, the planes, and the guns that drove the Japs from the Solomon and Gilbert Islands, that wrested the Marianas from the control of the Orient, and that had the Jap garrisons in Truk and the Philippines quaking in fear, were the result of the average American's sense of duty to his Government and of his loyalty to democracy and his unquestionable love of freedom.

The landing craft, the invasion barges and the paratroop planes that pierced Hitler's vaunted Atlantic wall, and took Hirohito's islands, were manned by the boys of the same heritage of Bunker Hill, Ticonderoga, the Alamo, San Juan Hill and Chateau Thierry, all of whom were consumed with the burning love of liberty and were willing to give the last drop of their life's blood that the light of freedom should always burn aloft over our Republic.

I daresay that there is not a man here today who has not been affected in some way or another by the great world crisis. Whether those who were so near and dear to you fought in the foxholes of Guadalcanal, or on the desert sands of Tunisia, or on the beachheads of Italy, or on Iwo Jima, or on Tarawa, at Bataan or on Wake Island—remember this—they had had a rendezvous with death, and yet despite all, the final victory was ours. Is it any wonder then that America's duty to the future demands that the cherished principles of liberty be preserved for all time? We can do this best by striking at the forces which assail liberty—the thoughtless and the exponents of totalitarian serfdom and slavery. The American people have always been concerned with the flagrant violations of peaceful little nations; the cruel and bitter persecution of God-fearing men, women and children, because of their religion, race or political opinions. The vile and barbarous deeds which have been inflicted upon democratic peoples of the Old World represent an attack against everything we hold dear—an attack against international good faith, against religion, against

political freedom and against civilization itself.

If the people of this country have no convictions with regard to the values in which they so strongly believe, no faith in the principles for which their fathers and forefathers died, democracy then is doomed. If Americans will not voluntarily obey the disciplines of morality, then immoral forces will discipline us. And if the citizens of the United States have no ideals for which they would die to preserve, then despotism and darkness will come over the western hemisphere, just as it threatens to envelop Europe and the rest of the world. The salvation of this nation, therefore, lies in the full-hearted allegiance of every American to the self-evident truths contained in the Declaration of Independence and the liberties protected by the Bill of Rights.

The great problem in America today, as it has always been in the past, is how people with important differences and conflicting viewpoints in the realms of religion and politics can live together in harmony. The solution of this problem, perhaps, is America's destiny, and in that solution may lie her future as a nation. Since America is a medley of differences, engendered by the existence within her borders of more than a score of nationalities and an infinite number of religions, those differences must find one common denominator—one level, and that is, understanding. Understand others' views and appreciate them. It is not so much TOLERANCE which is needed, as APPRECIATION—an appreciation of the rights of others which all humans possess, because freedom of thought and conscience is not a matter of favor granted by the state and withheld by the state, or granted by the majority and withdrawn by the majority, but it is a matter of right, inalienable, God-given and self-evident.

We can thank God that our forebears came to America. They had something to do and they felt they knew how to do it. They had the job of clearing and plowing the land and making themselves and their families safe from the Indians. They had the job of tying together with ships and roads and rails and words and names a large area of undeveloped land into a single social unit. They knew who they were. They were the smartest, toughest, leanest, all-around knowlegest Americans on God's green earth. Their way of living, in their opinion, was the handsomest way of living that human beings had ever hit on. Their institutions were the institutions history had been waiting for. If you had told them that anyone else had a better hold on the earth than they did, or anyone else believed in himself or his country more than they did, they would have laughed in your face. Who an American was and what he was, was not much of a secret. You could see for yourself.

An American was a man who knew which way to take to reach tomorrow. An American was a man who never asked anyone anything—who he was, or where he came from, or what he did—because it was answer enough to be a man, at least in America.

There is no group in this country that is more loyal to the principles of democracy than the Veterans of Foreign Wars. Everyone recognizes that you are indeed real Americans.

I am an American, but I am a tired American. I am tired of being the Ugly American. I am tired and weary of the hippies, yuppies and beatniks who claim that they should have the right to determine what laws should be obeyed. I am a tired American—fed up with the hordes of scabby-faced, long-haired youths and short-haired girls who claim they represent the New Look of this country, and who scoff at the old-fashioned virtues of honest, integrity and morality. I am tired of supporting families who haven't known any other source of income other

shift in public confidence from newspapers to television has escalated the cost of campaigning far beyond what most candidates can afford. A national effort to elect a peace Congress will cost millions, but in the early days of the campaign it is the thousand-dollar checks which count. Before a candidate takes on an entrenched opponent, he needs—and deserves—to know whether he has a realistic chance. Money helps that confidence.

**2. Candidate Recruitment.** In some states and districts, registration and petition efforts will have to get started before candidates appear, simply because the deadlines are approaching so rapidly. As soon as possible, however, these actions must be organized around specific candidates who articulate and lead the cause. The overriding criterion must be the man's determination to take an active, aggressive role, in cooperation with other congressmen, to stop the war. That comes first. But reactionaries, ideological wild men, and political inepts—however loudly they proclaim their dedication to peace—have to be screened out. The point is to win and get the U.S. out of Vietnam.

**3. Leg Power.** Personal contact with voters—canvassing—is probably the most effective way to bring out the votes. In the hoopla of Presidential campaigns other factors may be more important, but congressional primaries are prime targets for personal politics. Primaries can be won by small margins: in many of them, only 20 to 25 percent of eligible voters make it to the polls. There is much room for education at the doorstep: Gallup found in 1965 that 57 percent of American adults did not even know their congressman's name; 70 percent did not know when he would next stand for election—much less how he stood on the war. If the peace forces in both parties can mobilize the kind of volunteer effort we saw in New Hampshire, Oregon, Wisconsin and California in 1968, Congress can be turned around on its grass-roots.

It won't be easy. Target states and districts will have to be carefully picked—although there is hardly a district in the country in which a serious challenge cannot be mounted if the war drags on. The national mood seems volatile; Representative Sam Steiger of Arizona and 14 of his colleagues read it one way when they call on the President to order a "sudden and major escalation" of the war. Furthermore, incumbents have been hard to beat; they hang onto their seats as if they owned them. In the current House, only 9.2 percent of the members are freshmen, the lowest percentage of new blood in the history of the US. Many are too busy climbing up the little ladders in their committees and subcommittees to grasp the urgencies felt among the people back home. That can change. A locally based movement for a peace Congress will know best the races on which to concentrate.

Take Rep. John Rarick, Democrat from Louisiana. Rarick has termed peace demonstrations "a public manifestation of disloyalty." Of three of Louisiana's eight Representatives were opposed in the last election; Rarick was one. In the midst of his district, the Sixth, stands Louisiana State University, with more than 18,000 students and their teachers. What are the chances for defeating Rarick in a primary next year?

Consider Mr. William E. Minshall, Republican of Ohio's Twenty-Third District. Minshall is the second-ranking Republican on the Department of Defense subcommittee of the House Committee on Appropriations. He has not been what you might call an energetic advocate of prompt withdrawal from Vietnam. In November, 1968, Minshall squeaked through with 52 percent of the vote, defeating a liberal Democrat by a margin of 8000 in 200,000 votes. Suppose that among the 40,000 students at Ohio State

University, and those from other colleges, a thousand canvassers could be discovered, trained and transported to Minshall's district for a primary in May. Somewhere along the road Rep. Minshall might change his mind.

Why have we not heard of leadership for peace from the House Committee on Armed Services? Ranking right next to Mendel Rivers on that committee, and chairman of its subcommittee number one is Rep. Phil Philbin, Democrat, of Massachusetts' Third District. Mr. Philbin was not among the more than 80 members who spoke up for the Moratorium; so far he cannot be called a leader for peace. Philbin's district nests among one of the most thickly settled hotbeds of student power in the United States—the Harvard-MIT-University of Massachusetts-Brandels complex. In the last election he faced two challengers and won with a bare 47.8 percent of the vote. Should there be an alternative to Philbin in 1970?

The House has a Committee on Foreign Affairs, a fact that may be news to those who have noticed the leading role of the Senate Foreign Relations Committee. The ranking Republican there is E. Moss Adair, who won in Indiana's Fourth District with a shaky 51.4 percent of the vote. What could be accomplished by a team from Notre Dame, backed up with volunteers from Indiana University's nearly 50,000 students?

In districts like these, a double-barreled strategy may make sense: primaries in both parties, to raise the odds that a peace candidate will get on the ballot in 1970.

There are targets elsewhere. Hébert of Louisiana, Meskill of Connecticut—even the Rivers and Mahons may be challengeable. In the Senate, four seats are being vacated, their incumbents retiring, so the field is open; Holland of Florida, McCarthy of Minnesota, Young of Ohio, and Williams of Delaware, Dodd of Connecticut deserves to go, as does Murphy of California. Prouty of Vermont is being challenged by an attractive, outspoken Robert Kennedy-Eugene McCarthy, supporter, ex-Governor Phil Hoff, in a state increasingly attuned to change. Alaska could replace Republican-appointed Theodore Stevens and return to its Gruening tradition. Hawaii—strongly Democratic in Presidential voting—might replace Republican hawk Hiram Fong. Meanwhile, senators who have taken courageous leadership for peace need strong support: Gore of Tennessee, Hart of Michigan, Yarborough of Texas, Goodell of New York and others.

Realistically, present US policy, dependent as it is on the Saigon junta, the NLF and Hanoi, may drift into re-escalation or widely spaced mini-withdrawals. The war may be worse by November, or drag on as now. Or it could be over by November. The campaign for a peace Congress must be ready, before it is too late to effect real changes in Washington. Act One is a visit to each incumbent senator or representative by a top delegation of citizens, urging him to join with his colleagues in a common move for a quick end to the war, and describing to him the organized peace forces developing in his constituency. Act Two is the nominating process—the registration drive, petitions, conventions, and primaries. Act Three is November. To play out this drama with hope in the results requires a special dedication which may be too much for the older generation. It means hour after hour of work few will notice. It moves beyond the excitement of provocation to the exhaustion of persuasion. There will have to be speeches by those who have never made speeches, lonely encounters with hostile voters, cold feet and missed recreations, chances taken in a cloud of uncertainty. No one can say how it will turn out. But if the alternative to politics is acquiescence to killing and dying, we have a responsibility to try politics.

## WITHDRAWAL FROM VIETNAM

Mr. FULBRIGHT. Mr. President, Life magazine for May 22, 1970, contains one of the wisest and most perceptive statements on our involvement in Southeast Asia—an article entitled "Set a Date in Vietnam. Stick to It. Get Out," written by Mr. Clark Clifford.

Mr. Clifford is, of course, uniquely qualified to write on this subject, having served as Secretary of Defense in 1968-69. He was an adviser to Presidents Truman, Kennedy, and Johnson and coordinated the transfer of power from Eisenhower to Kennedy. His article advocating the beginning of withdrawal from Vietnam, published in Foreign Affairs a year ago, received wide attention. President Nixon said then he hoped to better Clifford's proposed timetable.

Mr. President, I hope that Senators and the public will carefully consider Mr. Clifford's suggestions and conclusions. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### SET A DATE IN VIETNAM. STICK TO IT. GET OUT.

(By Clark Clifford)

On the evening of April 30, I heard President Nixon inform the American people that in order to "avoid a wider war" and "keep the casualties of our brave men in Vietnam at an absolute minimum," he had ordered American troops to invade Cambodia.

My mind went back to a day in April 1961 when I received a telephone call from President Kennedy. He asked me to come to the White House to discuss the Bay of Pigs disaster which had just occurred. He was agitated and deadly serious. I shall never forget his words: "I have made a tragic mistake. Not only were our facts in error, but our policy was wrong because the premises on which it was built were wrong." These words of President Kennedy apply with startling accuracy to President Nixon's decision to invade Cambodia. Unfortunately, it is clear that President Nixon's action is an infinitely greater mistake than President Kennedy's, because more than 400,000 American boys remain involved in Vietnam, and far graver damage has already been done to our nation, both at home and abroad.

Like most Americans, I welcomed President Nixon's promises to end the Vietnam war and bring our boys home. Like most Americans, I applauded the President's action in withdrawing 115,000 of our troops so far, and have noted his intention, with some qualifications, to withdraw 150,000 more in the next 12 months. Like most Americans, my sincere inclination is to support our President in times of crisis. However, I cannot remain silent in the face of his reckless decision to send troops to Cambodia, continuing a course of action which I believe to be dangerous to the welfare of our nation. It is my opinion that President Nixon is taking our nation down a road that is leading us more deeply into Vietnam rather than taking us out.

George Santayana once said: "Those who cannot remember the past are condemned to repeat it." In my personal experience with the war in Vietnam, I have learned certain basic and important lessons. It has been my hope that the present administration would study the past and determine not to repeat certain actions previously taken. However, I must express the deepest concern that it is

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now apparent that President Nixon has not grasped these vital lessons which seem so blazingly clear as we look back at the last five years of our substantial participation in the Vietnam conflict.

I have learned three fundamental lessons from my personal experience with Vietnam and I shall present them in this article. I shall then discuss how these lessons apply to the Cambodian situation. Finally, I will suggest a specific plan for our extrication from Vietnam.

*The national security of the United States is not involved in Vietnam, nor does our national interest in the area warrant our continued military presence there.*

The basis of our original participation in the conflict in Vietnam, was the general acceptance of the so-called "domino theory." If South Vietnam were permitted to fall, then other nations of Southeast Asia, and possibly even in the Asian subcontinent, might topple, one after the other. If this occurred, it was alleged, the national security of the United States would be adversely affected. At one time, I accepted the reasonableness of this theory, but my own personal experience has led me to the conclusion that it is now unsound.

One of the major reasons for the change in my own thinking has been the attitude, evidenced over the last five years, of the nations in Asia that would be most seriously affected if the domino theory were applicable. These nations are infinitely better acquainted with the political, military and diplomatic facts of life in that part of the world, for they have lived with them for hundreds of years. As one looks at the map of the area, it is interesting to fan out from South Vietnam and ascertain the number of troops that these countries have sent to help South Vietnam because, in the final analysis, that is the most accurate test of the degree of their concern.

Burma, Laos and Cambodia, to the west, have sent no troops to South Vietnam. Singapore and Malaysia have sent no troops, while Thailand has sent only token forces.

The Philippines have sent no combat troops. The personnel of the engineering units and hospital corps it did send have been largely withdrawn. Indonesia, India and Pakistan have sent no troops.

These are the closest dominoes, and should be the first to fall.

As far as Laos and Cambodia are concerned, their behavior hardly justifies any sacrifice of American lives or treasure on their behalf. The situation existing in these countries is incredibly sleazy, and should be known and understood by all Americans.

Most of the men and materiel of war used to fight against American forces in South Vietnam come down the Ho Chi Minh Trail through Laos. Is Laos prepared to make any sacrifice to prevent the use of the trail? Certainly not! In fact, the exact opposite is the case. On March 6, 1970, Souvanna Phouma, prime minister of Laos, had a press conference and said:

"I told the ambassador from North Vietnam last year that we will accept the use of the trail by North Vietnamese troops with the condition that those troops withdraw from the important regions of Laos."

While American pilots, on a sharply escalated basis, are fighting and dying in support of Laotian forces engaged with Communist troops, the ruler of Laos suggests a deal that would permit the North Vietnamese free use of the trail through Laos to transport troops, guns and ammunition to kill Americans in South Vietnam.

In Cambodia, for years, enemy supplies have come into the port of Sihanoukville and have been transported across Cambodia into South Vietnam, to be used against American forces.

Laos and Cambodia have not been prepared to jeopardize their own interests to

prevent North Vietnam from conquering the South. In fact, at least until Sihanouk's recent fall, both countries have been helping the North Vietnamese, and maneuvering to make their own deals. The United States has become involved in the age-old intrigue and chicanery that are traditional in the area.

I feel strongly that we have met, many times over, any obligation or commitment that we had in that part of the world, and I believe that the developments of the last five years should persuade us that the time has come to disengage in Southeast Asia and bring our men home.

I believe most Americans agree, but from what he says and does, President Nixon continues grossly to exaggerate Vietnam's importance to our national security.

In giving thought and study to this enigma, I have reached the conclusion that President Nixon has a curious obsession about Vietnam and Southeast Asia. Back in 1954, in a speech to the American Society of Newspaper Editors in the East Room of the White House, then Vice President Nixon said: "If in order to avoid further Communist expansion in Asia and particularly in Indochina, if in order to avoid it we must take the risk now of putting American boys in . . . I personally would support such a decision." This is particularly startling because Mr. Nixon was recommending that we sent American troops into Indochina to help the French who were engaged in war there to retain their colonial territories.

In 1965, President Nixon, then a private citizen, wrote a letter to the *New York Times*. In that letter, he declared that "victory for the Vietcong . . . would mean ultimately the destruction of freedom of speech for all men for all time, not only in Asia but in the United States as well." In his speech of Nov. 3, 1969 he referred to the "great stakes involved in Vietnam," and asserted that they were no less than the maintenance of the peace "in the Middle East, in Berlin, eventually even in the Western Hemisphere."

I want very much for the President of the United States to be wise, mature and to exercise good judgment, but a statement of this kind shakes my confidence to its very core. I cannot remain silent when President Nixon acts as though he believes that a certain political result in a small underdeveloped country of 18 million persons in Southeast Asia is somehow crucial to "the future of peace and freedom in America and in the world."

I have learned these past years that the war in Vietnam is a local war arising out of the particular political conditions existing in Southeast Asia. I consider it a delusion to suggest that the war in Vietnam is part of a worldwide program of Communist aggression.

President Nixon continually argues that we must fight in Vietnam now to avoid "a bigger war or surrender later." But it is clear to me that the only real danger of a "bigger war" would come from the continued escalation of the rapidly widening conflict in Indochina.

*We cannot win a military victory in South Vietnam, and we must, therefore, cease trying to do so.*

The goal of winning a military victory in South Vietnam has proved to be a will-o'-the-wisp that has led us from one military adventure to another. I have reached the clear conclusion that we are not winning such a victory, nor can we win it in the future.

Certain restraints have been placed upon our military activity by the political realities that exist. We have been unwilling to invade North Vietnam, or to engage in indiscriminate bombing or mining of its harbors. As a result, we have been occupied in the most difficult type of guerrilla war and probably what is the most difficult terrain in which to fight. Our enormous firepower and our airpower are seriously limited and restricted by the fact that most of the fighting takes place in the deepest jungles in Southeast Asia.

In warfare, a nation has three major goals. The first is to kill as many of the enemy as possible on the field of battle. The second is to destroy the enemy's war-making potential, and the third is to seize and hold enemy territory. In the present conflict, a substantial number of the enemy have been killed but the troops from the North continue to come down in an uninterrupted flow. The enemy is well armed, well equipped and well trained, and is expert in guerrilla warfare. And Hanoi has made clear beyond any reasonable doubt its willingness and ability to accept substantial casualties for as long as necessary.

As the second goal, we have been unsuccessful because we are wholly unable to destroy the enemy's war-making potential. The factories turning out guns, rockets, mortars and the materiel of war are not located in North Vietnam, but in Red China and the Soviet Union. We cannot destroy the factories in those countries. We attempted instead to impede the flow of weapons into South Vietnam by a bombing campaign in the North. In my opinion, the results did not warrant the enormous cost to us.

We have been no more successful in pursuing the third goal of seizing and holding territory. The enemy does not operate along a battle line; his objective is not to hold territory. When we attack, the enemy yields, but he returns when we move out.

In the pursuit of these goals, we have lost the lives of close to 45,000 Americans, had more than 275,000 wounded, spent over \$125 billion, lost close to 7,000 planes, and we have dropped more tonnage of bombs in this conflict than we did in World War II and the Korean War combined.

Our problem in Vietnam is due not only to our inability to attain the military goals, despite our great effort, but to the fact that the struggle is basically a political one. The enemy continues to symbolize the forces of nationalism. The regime which we support is a narrowly based military dictatorship.

President Nixon has repeatedly asserted that the only alternative to his Vietnamization program is the "defeat and humiliation" of the United States. He has announced his determination not to accept this "first defeat" in our nation's history. The President's view constitutes in my opinion, a complete misreading of the nature of the conflict in South Vietnam, of our role and purpose there and of the American national interest. The alternatives in Vietnam are not military victory on the one hand, or defeat and humiliation on the other. We did not intervene to conquer North Vietnam, but solely to extend a shield for South Vietnam. We did not intervene to impose any particular government on South Vietnam. The interests of the South Vietnamese people will be served and our objectives will be achieved by a realistic political settlement. A program for orderly disengagement will create the conditions in which productive negotiations become possible. Such a program is the only way to peace, and peace in Southeast Asia is the only victory that we should seek.

One of the deepest concerns I have about our present policy in Vietnam is that President Nixon, while he proclaims his dedication to a political settlement, by his actions still seeks to gain the military victory that cannot be won.

*We cannot continue to fight the war in Vietnam without doing serious and irreparable injury to our own country.*

The effect of the war on the young people in the United States is a virulent one. They feel especially affected by the war because they are the ones who have to fight it. Many of them do not believe in it and they are at a loss to understand why they must fight and die in a remote corner of Southeast Asia when they know their country is in no peril whatsoever. One of the poisonous effects of the conflict is the disunity and bitterness, and



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in some instances violence, it has brought about in our country.

The war has confused many Americans and has caused a continuing loss of confidence because the institutions of our government have not dealt with the pressing problem of national priorities. Every domestic problem we have, including poverty, inadequate housing, crime, educational deficiencies, hunger and pollution is affected adversely by our participation in the Vietnam war, and I do not believe these problems will be brought under control until we have disengaged from that conflict.

The war is a major contributor to the inflation that is hurting every citizen in our nation. We are also in the midst of a serious setback as far as business is concerned. The effect of the war on our economy is dramatic. Almost immediately after our foolhardy entry into Cambodia, the Dow-Jones industrial average declined over 19 points.

What troubles me is that President Nixon continues to give priority to policy in Indochina and to ignore its consequences at home. His actions are dividing the nation when we need desperately to be united and to devote our energies to our critical domestic problems.

*The Cambodian invasion ignores these three lessons.* The President ordered up to 20,000 American troops into Cambodia, and has now promised to have them out by July 1. I know already, in my own mind, that the operation will achieve little. The enemy will fade into the jungles of Cambodia, which are just as impassable and impenetrable as those in Vietnam. Any military gains will be temporary and inconsequential.

This is not an idle prognostication upon my part but is an opinion derived from past experience. Time and again in South Vietnam, the recommendation was made that a sweep be conducted through the Ashau Valley on the grounds that a vital blow could be struck against enemy forces. Time and again, thousands of American troops would sweep through the valley and find practically no enemy soldiers. The same will happen in Cambodia.

Also, there is a curious psychology I cannot understand that attaches importance to capturing territory even though it is held for a temporary period. A perfect illustration is Hamburger Hill. We drove the enemy off Hamburger Hill at great loss of life to our troops, and then later on withdrew. As soon as we pulled out, the enemy reoccupied Hamburger Hill and we went back and repeated the process. I do not know who holds the hill today, I am sure it doesn't matter.

After the adventure is concluded and our troops have been pulled back to South Vietnam, I predict the enemy will quickly reoccupy the areas that we have cleared. Even if the decision were made to remain in Cambodia, then I predict the enemy will develop new bases and staging areas just outside the perimeter of the area we occupy in Cambodia. In either event, the military effect is negligible and not worth the effort.

President Nixon, in his address to the nation of April 30, informed the American people that the invasion of Cambodia is indispensable to the withdrawal of our troops from South Vietnam, that it will serve the purpose of ending the war in Vietnam, that it will keep our casualties at a minimum, and that it will win a just peace.

These contentions violate every lesson that we have learned in the last five years in Vietnam. The bitter experience of those years demonstrates clearly to me that our incursion into Cambodia will delay the withdrawal of our troops from South Vietnam because it spreads the war and intensifies it. This decision will not end the war, but will lengthen it because of the reactions of the enemy to this new development. It will not keep our casualties down but will increase them, not only because of the men killed in

Cambodia but because of the increased level of combat which I predict will be the other side's response in Vietnam. It will not achieve peace but will postpone it or destroy entirely the chances of obtaining it. Even though we pull out, the damage has been done, and the bankruptcy of our present Vietnamization program has been exposed.

The thrust of President Nixon's position in his speech of April 30 was that if we escalated our efforts into Cambodia, it would aid our program of Vietnamization.

How unfortunate it is that President Nixon did not heed the congressional testimony of Secretary of State William P. Rogers when he testified on April 23, just one week before the President spoke. Secretary Rogers said:

"We have no incentive to escalate. Our whole incentive is to de-escalate. We recognize that if we escalate and get involved in Cambodia with our ground troops, that our whole program [Vietnamization] is defeated."

I anticipate that in the period of the next few weeks glowing reports will flow back from Vietnam regarding the outstanding success of the drive into Cambodia. Figures will be proudly presented showing the number of tons of rice captured, bunkers and staging areas destroyed, substantial numbers of weapons and quantities of ammunition found. A determined effort will be made to portray the entire adventure as a success, even though no major engagements will have taken place and the number of enemy casualties will be woefully small. This has happened time and time again, and our hopes have been raised only to be dashed by new enemy offensives. The capture of supplies and equipment, in the past, has been met by an increase in the supply of such equipment by the Soviet Union and China, with resulting increased flow down the pipeline from North Vietnam.

A further worry I have is that this ill-advised move into Cambodia could create a whole new set of problems. The open violation of Cambodian neutrality on the part of our troops could well constitute an open invitation to the North Vietnamese to expand their efforts further over Indochina on the pretext of defending independence. Our march into Cambodia now jeopardizes the ancient capitals of Phnom Penh and Vientiane. I do not have the prescience to visualize what may take place in this regard, but I know that we have greatly expanded the danger of the conflict spreading throughout Cambodia and Laos, and even further.

Although I consider the attack on Cambodia to be fraught with the most serious military consequences, I attach even greater danger to the diplomatic results that will flow from it.

Many of our friends around the world are shocked at this imprudent expansion of the conflict. They had hoped that they would see a contraction of the area of conflict and instead they learn, with deep apprehension, that it is being widened. The Cambodian adventure ignored the request of Foreign Minister Malik of Indonesia that no action be taken to extend arms support to Cambodia pending a regional conference to find ways of preserving that country's neutrality.

The decision appears to have been made so precipitately that the proper consideration was not given to the effect of the action on Communist China. The action was taken right after the recent conference of Communist representatives from China, Cambodia, Laos and North Vietnam. This conference ended with an agreement of mutual support and cooperation in combating American and other enemy forces in Indochina.

The predictable Soviet reaction was also apparently discounted. Premier Kosygin, on May 4, called a special news conference to warn of the worsening in Soviet-American relations. Mr. Kosygin stated that the Cambodian move raised serious doubts about

President Nixon's sincerity in seeking an "era of negotiation." Mr. Kosygin went so far as to suggest that President Nixon's statements could not be trusted. This does not mean that either China or Russia will intervene directly, but it does mean that they will give North Vietnam all the aid it needs to neutralize our action.

Another unfortunate result of our action is to imperil the success of the strategic arms talks now being held in Vienna. Mr. Kosygin stated that our actions put the Soviet Union on guard and decrease their confidence, without which it is difficult to conduct negotiations.

Domestically, the re-escalation of the war has gravely increased the disaffection of young Americans, and the disruption of our society.

The active invasion dramatizes another facet of President Nixon's statements on the war which has caused me the deepest concern. In his speech of April 30, President Nixon again warned the North Vietnamese that, if they accelerated the fighting, he would take stern action in response. He has done this on at least four or five occasions and, in each instance, the enemy has responded by some type of military action. I suggest that this is the road to utter chaos. While announcing the withdrawal of a limited number of troops on the one hand, the President keeps threatening the enemy by assuring him that we are perfectly willing to raise the level of combat. This is not the path to peace. It is the path that will lead to more and more fighting and more and more dying.

*It is time now to end our participation in the war. We must begin the rapid, orderly, complete and scheduled withdrawal of United States forces from Indochina.*

President Nixon has described his program of Vietnamization as a plan for peace. I believe, however, that it can never bring peace in Southeast Asia, and that it is, in fact, a formula for perpetual war.

This war can only be ended by a political settlement. Nothing that the Administration is now doing holds any promise of bringing one about. And our present program for indefinite military presence in Vietnam makes such political settlement impossible. So long as our withdrawals are conditioned on the ability of the South Vietnamese to assume the combat burden, Hanoi cannot be expected to believe that we are genuinely interested in, or would even accept, the kind of political compromise that a peaceful settlement would require. The present Saigon government, on the other hand, will never make the necessary accommodations so long as it is secure in the belief that American forces will remain in sufficient numbers to keep it in power.

It seems clear that the Administration believes it has proposed in Paris a genuine basis for compromise. In my opinion, however, these proposals are not realistic, nor will they lead to any progress.

Accordingly, what we need is a program that will Vietnamize the peace rather than prolong the war. In July 1969, in an article in the magazine *Foreign Affairs*, I recommended the definite, scheduled withdrawal of our ground combat forces from Vietnam by the end of 1970. I now propose to go further, and set a final date for our complete disengagement. Such final date might even be advanced if certain agreements are reached. The following is my specific three-point plan:

1. Announce publicly that all U.S. forces are to be removed from any combat role anywhere in Southeast Asia no later than Dec. 31, 1970, and that all U.S. military personnel will be out of Indochina by the end of 1971, at the latest, provided only that arrangements have been made for the release of all U.S. prisoners of war.

2. Move promptly to end B-52 attacks, all search-and-destroy missions, and all other

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offensive operations, except as necessary to protect the security of U.S. forces, as disengagement proceeds.

3. Inform Hanoi and Saigon that we are prepared to negotiate an even more rapid withdrawal if the safety of our forces is assured by a cease-fire or other arrangements in South Vietnam, and if there is an understanding regarding the cessation of military pressures in Laos and Cambodia.

President Nixon has maintained that, were he to announce a withdrawal schedule, Hanoi would lose all incentive to negotiate a settlement. It is abundantly clear, however, that Hanoi feels no incentive to negotiate at the present time. The President has also asserted that North Vietnam would then simply wait until our troops have been reduced in number and launch attacks. But this potential exists whether a withdrawal program is announced in advance, or simply in installments. A third objection has been that the South Vietnamese forces may not be ready to assume the full combat burden and that a military conquest and bloodbath may ensue. But our objective should be to establish the conditions that will lead, not to the continued necessity for combat capability, but rather to a political compromise that will bring peace and stability to that troubled land.

On a number of occasions, President Nixon, in arguing that it would be improper for us to leave Vietnam now, has used the so-called "bloodbath" argument. He has suggested that the massacre of many South Vietnamese, including a million and a half Catholics who fled from the North, would occur when our forces withdrew.

I find this position difficult to understand. In the first place, the figure of one million and a half Catholics who fled to the South, referred to by President Nixon in his speech of Nov. 3, 1969, is incorrect. A study of this subject, published in 1966, by the South Vietnam Department of Education and the National Commission for UNESCO, discloses that the number is not 1.5 million but 754,710. This is significant because the President overlooked the fact that there are still living in North Vietnam today approximately 800,000 Catholics. There are also Catholics among the leadership of the National Liberation Front in South Vietnam.

The President bases his claim of "bloodbath" on his charge that when the Communists took over North Vietnam in 1954, they slaughtered thousands upon thousands of North Vietnamese. In fact, the records of the International Control Commission disclose that in the two years following the armistice of 1954, only 19 complaints were filed covering political reprisals in all of North Vietnam. Later, in 1956 and 1956, a peasant revolt was harshly repressed, and the best estimate are that 10,000 to 15,000 may have died.

It is my firm belief that, when it becomes apparent that the Americans are in fact leaving, all parties seeking power in South Vietnam will have a strong incentive to negotiate a compromise settlement. All will recognize that compromise is their one assurance of a share in political power. The contending factions must now be aware that, in the absence of compromise, they can look forward only to continued conflict and disruption. The need for peace must now be apparent to all but the very few whose power and profit depend on war. We should not forget that, in South Vietnam's election of 1967, and under circumstances that could hardly be described as favorable, a candidate advocating accommodation for the purpose of peace secured 17% of the votes counted, while the winning military ticket fell far short of a majority.

The North Vietnamese negotiators have indicated their willingness to talk seriously if the United States declares the total and unconditional withdrawal of its troops from South Vietnam. Their suggestion of a six-

month period of such withdrawal need not be accepted, but their acceptance of the principle should not be ignored.

The obvious advantage of the three-point plan proposed herein is that it will specifically and unequivocally have all U.S. forces out of Indochina by the end of 1971 at the latest. It also frees the President from military pressure to slow or stop the withdrawal process. The plan takes account of the plight of the Americans now held captive and gives them and their families the hope of early release. No such hope can exist while the war continues and even intensifies. It offers also an immediate reduction in the level of violence throughout Vietnam. The ending of B-52 raids and search-and-destroy missions so long as the other side does not act to jeopardize the security of our troops, will lower casualties and create a climate far more hospitable to the process of political settlement. This approach could serve to get negotiations started again, and as they progress, this diminution in hostilities can develop into a complete cease-fire.

The time has come for us to grasp the initiative in making the necessary and vital decisions. President Nixon's policy of making our withdrawal dependent on his three criteria is a grievous error. These criteria are: (1) the level of enemy activity; (2) progress at the peace talks in Paris, and (3) the speed with which the South Vietnamese take over the fighting. Even a cursory study discloses that items one and two are controlled by Hanoi, while item three is controlled by Saigon.

We should no longer allow our own perception of our own interests to be distorted or deflected by our apprehensions as to what may occur politically in Saigon. American national interests require American disengagement from South Vietnam. I am convinced that, as presently enunciated, the Nixon program will not bring this about.

We should, instead, decide now to get out of Vietnam on a scheduled and orderly basis no later than the end of 1971. We should, at the same time, make known our readiness to negotiate a much earlier withdrawal and we should move now to scale down the level of violence. Only in this way can we achieve the peace that all Americans want, and that American military might can never win.

The present policy must be changed. The only effective method to accomplish this is sustained pressure from the public. The enormous upswing in antiwar sentiment, following the Cambodian transgression, must be maintained and strengthened and continuously brought to the attention of our country's leaders.

The solution is within our hands—if we will but use it.

Mr. FULBRIGHT. Mr. President, I also invite the Senate's attention to two articles published in the New Yorker magazine of May 9 and May 16. They provide a most succinct analysis, particularly with regard to the Constitution. The logic of these articles is irrefutable. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

#### NOTES AND COMMENTS

President Nixon's decision to invade Cambodia and the speech he gave to justify it have precipitated one of the most dangerous crises in the nation's history. The arguments by which the President attempted to make this fateful escalation of the war appear a move toward de-escalation contained such extreme inconsistencies and such fundamental violations of logic that it becomes almost impossible to carry on rational debate in its aftermath. For example, the President

was apparently unable to decide whether his action was designed to take advantage of what some members of the press have called a "golden opportunity"—afforded by the Cambodian government's momentary and highly doubtful support of our war effort—to eliminate a long-standing threat from North Vietnamese troops or whether he was responding to some fresh threat. He decided finally to have it both ways, and told us at the beginning of his speech that "in the last ten days" a new threat had appeared, and, later on in his speech, went to his map to prove that the threat had existed for five years. Our own guess is that the government is using recent political developments in Cambodia as an argument for once again chasing after the mirage of military victory. As for his contention that "once enemy forces are driven out of these sanctuaries and once their military supplies are destroyed, we will withdraw," we have had half a decade of bitter experience with this line of thinking in Vietnam, and the Army's announcement that the enemy appears to have learned of our attack in advance and withdrawn from the area before we arrived hardly comes as a surprise. (It is true that the enemy does not appear to have escaped with quite all his supplies. When Vice President Agnew was asked on "Face the Nation" what the objective of the mission was, he answered that it was not to kill enemy soldiers but only to destroy their bases and headquarters. As an example of the mission's early success, he pointed out that the Army had captured a "laundry facility" and a large store of "freshly laundered uniforms." How will the enemy manage to continue with his uniforms unlaundered?) The enemy's disappearance, combined with the news from Cambodia that thirty per cent or more of the troops fighting the dispirited Cambodian Army are thought to be native Cambodians, makes it look more likely that even opponents of the war could have predicted that civil war has begun in Cambodia and that our troops will soon be fighting in a "second Vietnam." Indeed, it is probable that we will soon face a powerful combined force of North Vietnamese, South Vietnamese, Laotians, and Cambodians. If this happens, and if the North Vietnamese and their indigenous allies are able to overthrow the current regimes in Cambodia and Laos, it may well be that most, or all, of Southeast Asia will become the new battleground and China the "Sanctuary." And at any point in the course of such a development the Chinese may choose to enter the war directly.

What must have come as a particular shock to the Cambodians, who have now said that they had no advance notice of the invasion, was the President's failure in his speech even to mention the interests of either the Cambodian government or the Cambodian people, who will, after all, suffer most immediately from the invasion. (The Vice-President's remark that "we have no responsibility to the Cambodians" cannot have reassured them.) There have already been reports of bombings and burnings of Cambodian villages, and the Administration's contention that the areas we are invading are "completely occupied and controlled by North Vietnamese forces" indicates that the scorched-earth tactics of the "freedom zone" and of the "hundred-percent V.C. area" are in effect. Very soon after the invasion, Cambodia's Premier Lon Nol denounced it, perhaps because he has learned from the experience of Vietnam that few fates are as terrible for a country as American military support in a civil war. The President's statement, on the very night of the invasion, that our respect for the neutrality of Cambodia was demonstrated by the fact that we maintained fewer than fifteen diplomats in Phnom Penh was a path-breaking non sequitur. The crowing paradox in the Presi-

dent's speech, however, came when, just after announcing that American troops were crossing the Cambodian border, he said, "This is not an invasion of Cambodia." Cambodia—a country we have gone into uninvited and unannounced. A similar problem arose when, a day after we had resumed the bombing of North Vietnam, Defense Secretary Laird threatened that if the enemy "reacted" in Vietnam to our operation in Cambodia we would resume the bombing of North Vietnam. Yet, terrible as it is to know that, with no apparent justification, we are beginning the destruction of a second nation in Asia (or, considering our massive bombings in Laos, perhaps we should say a third), it is the implications of these events for the world at large that, seen in the context of several alarming developments here at home, must be the cause of our greatest unease.

The invasion of Cambodia comes at a time when our republic is already seriously imperilled by the increasing use by many sections of government of a broad range of repressive measures, and by a growing impatience on the part of a significant section of the citizenry with any form of dissent. Impatience has been growing among the dissenters as well, and a minority of them have turned to violence to achieve their ends. This violence is dangerous in itself and damages the cause of peace. However, the government possesses virtually unlimited resources for repression, whereas the violent opposition is small and weak, and this means that the potential threat from the authorities is immeasurably graver than the threat from the rebels. The greatest dangers stemming from a turn to violence and illegal protest arise from the likelihood that it will provoke repressive retaliation from the government.

Before the invasion of Cambodia, only a few politicians had spoken out against these trends, but their predictions were of the most alarming kind. A few months ago, while the war was still confined to Vietnam, Senator Fulbright said that a continuation of the Administration's current war policy could lead, in the long run, to "a disaster to American democracy," and he added, "What a price to pay for the myth that Vietnam really mattered to the security of the United States." Mayor Lindsay declared that America was entering "a new period of repression." Senator Percy, Senator Goodell, Senator McGovern, and former Vice-President Humphrey were among the others who warned against the perils of growing repression. The Administration's attempt to rally the "silent majority" against the press, and the subpoenas it served on the press demanding the release of information received from confidential sources, had already damaged the press' access to news of dissenting groups, and has since caused many newsmen to think twice before they publish or broadcast controversial views or news stories. At the same time, dubious charges brought by members of the Administration against the organizers of anti-war demonstrations, and inflammatory and insulting remarks made about dissenters in general, have sent a chill of fear through the nation. Legislation has been passed by Congress to abridge the rights of people suspected of crime. Also, there is strong evidence that a national campaign by law-enforcement agencies to destroy the Black Panther Party is underway, and the Black Panthers have begun to experience the terror of facing a government they believe is bent on jailing or killing them.

In recent months, the campaign against dissenting citizens, which has jeopardized almost the entire Bill of Rights, has been paralleled by a considerable blurring of another fundamental provision of the Constitution; namely, the division of powers among the branches of government. There have been many cases in which the Senate challenged the authority of the Supreme

Court. In passing the Omnibus Crime Control and Safe Street Act of 1968, it specifically contradicted the Court's Miranda decision. This left law-enforcement officials with two contradictory rulings to follow in their dealings with criminal confessions. Currently, many congressmen are engaged in a political move to impeach Justice Douglas for, among other things, espousing a "hippie-yippie style revolution." The President also showed an insensitivity to the need for a strong and authoritative Supreme Court when he persisted in pushing the nomination of G. Harold Carswell to the Court long after it was known that roughly half the Senate opposed the nomination. *And during his campaign to have Carswell confirmed the President displayed a deep misunderstanding of the powers of the Senate itself.* The trend toward executive usurpation of the powers of the other branches of government came close to receiving official justification in a letter that President Nixon wrote Senator Saxbe urging the Senate to confirm the nomination. In the letter, the President described himself as "the one person entrusted by the Constitution with the power of appointment" of Supreme Court justices, and asserted that a Senate rejection of the Carswell nomination would put "the traditional Constitutional balance" in "jeopardy." As many observers have pointed out, the Constitution provides that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court . . ." *The President simply left out the part about the Senate.* The reasoning in his letter, which also accused senators of substituting "their own subjective judgment" for his judgment, was of a piece with the Administration's entire campaign against dissent. The message to the press, to dissenting citizens, and to the Senate has been the same: You may express yourself freely until you begin to disagree with us.

These tendencies become all the more troubling when one reflects that the first sixteen months of the Nixon Administration has been marked by an actual slackening of opposition to government policies. President Nixon has not had to face a fraction of the bitter personal criticism that President Johnson faced, and his Administration has not had to deal either with ghetto riots or with the often violent large-scale demonstrations that characterized the Johnson years; nor, for that matter, has he been faced with anything like the volume of opposition in Congress that Johnson was faced with. But it is clear that with the invasion of Cambodia all this has been changed at a stroke, and that opposition will now revive, probably with unprecedented vigor. Immediately after the Cambodian speech, the students and faculties of universities and high schools all over the country decided to go on strike. Scores of newsmen and large numbers of political leaders of both parties who had remained silent since 1968—and many who had been silent even then—immediately expressed their alarm over the expansion of the war. One must now have apprehensions about how an Administration that has made threats against civil liberties in a period of relative calm will respond in a period of what might well be the most intense opposition faced by any recent Administration. The country will be fortunate if protest is so vast and comes from so many quarters that the Administration will become convinced that the cause of peace and the cause of protecting our democratic institutions will be best served by a reversal of our new course of action in Southeast Asia. There were, however, several passages in the President's speech that made such a turn of events seem doubtful. At one point, he said, "We live in an age of anarchy, both abroad and at home. We see mindless attacks on all

the great institutions which have been created by free civilizations in the last five hundred years. Even here in the United States, great universities are being systematically destroyed." If this Administration believes that what we have now is anarchy, what will it think of what may come? Later in his speech, the President said, in reference to past wars, "The American people were not assailed by counsels of doubt and defeat from some of the most widely known opinion leaders of the nation. I have noted, for example, that a Republican Senator has said that this action I have taken means that my party has lost all chance of winning the November elections." And still later in his speech he said, "I realize in this war there are honest, deep differences in this country about whether we should have become involved, that there are differences to how the war should have been conducted. But the decision I announce tonight transcends those differences, for the lives of American men are involved." Does the President believe that the lives of American men were not involved in the decision to enter the war? Does anyone have to remind the President that because of that earlier decision more than forty thousand Americans have already died in Vietnam? The President has no monopoly on decisions that involve the lives of Americans—to say nothing of the lives of Vietnamese, Laotians, and Cambodians. Our legislators and even ordinary citizens also have decisions to make. The President has impugned both the right of our citizens and the right of our senators to question our war policy. The unnamed senator who made the remark about the November elections is Senator Aiken, the senior member of the Republican Party in the Senate, the President's reference to him is a signal that virtually no one is immune to the charge of betrayal who openly disagrees with the President.

One sentence in the President's speech brings up an entirely new theme. His statement that "any government that chooses to use these actions as a pretext for harming relations with the United States will be doing so on its own responsibility and on its own initiative, and we will draw the appropriate conclusions" can be read as a threat to our allies. And such a threat serves to remind us that behind the issue of the survival of freedom in America there is a still more fundamental issue, and that is the survival of freedom throughout the world. The invasion was carried out not in the name of protecting Cambodia, or even in the name of protecting America, but in the name of the principle of protecting American troops. We are forced to consider in a new light the dispersion of millions of American troops in many free countries (and also in a steadily increasing number of countries that are not free), and the deep penetration of America's enormous economic power into the economies of all free nations. We must ask how many democratic governments could withstand economic sanctions by the United States, and how many democratic governments, whose plans for defense are so tightly interwoven with American military power, could withstand withdrawal of our support—never mind an invasion. There would be nowhere for them to turn but to Russia, which is already a totalitarian state, and has recently demonstrated in Hungary and Czechoslovakia the quality of its respect for the independence of nations within the sphere of its power.

If the United States government fails to honor the freedom of its own people, who are protected by the American Constitution, it will not honor the freedom of any people. This is the true relationship between the invasion of Cambodia and the survival of the free institutions that President Nixon mentioned in his speech, and for this reason the invasion of Cambodia and its consequences within America are the urgent concern not only of Americans but of all mankind.



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## NOTES AND COMMENT

As the defeated British regiments marched past the files of French and American troops at Yorktown, the British bands, in detached resignation, played "The World Turned Upside Down." The same tune would have been an appropriate accompaniment to the events of last week. For the two-hundred-year-old American system came under its most serious attack in modern times, not from the poor, the blacks, or the students but from the White House—the fount, the pinnacle, the keystone of the established order. President Nixon became the first President in the history of the United States deliberately to order American forces to invade another nation on his own, without seeking congressional approval or support. This order was in disregard of the Constitution, the tempering strictures of our history, and the principles of the American democracy. It was, therefore, an act of usurpation.

Few prohibitions are more clearly set forth in the Constitution. It makes the President Commander-in-Chief, and explicitly states that only Congress shall have the power to declare war or raise armies. The Federalist Papers reaffirm what the law makes clear: the term Commander-in-Chief meant only that the President could direct the conflict after Congress had decided to make war. Hamilton wrote that the President's power would be much less than the power of the British King, for "it would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and Admiral of the Confederacy; while that of the British King extends to the declaring of war and to the raising and regulating of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature." This was no casual division. The fear of military power under the control of a central government was one of the most serious popular objections to the establishment of the new nation. The only way this could happen, the founders responded, was by a "continued conspiracy" between the executive and the legislature. In this case, Hamilton advised, "the people should resolve to recall all the powers they have heretofore parted with out of their own hands . . . in order that they may be able to manage their own concerns in person." As sophisticated men, the Founding Fathers foresaw some of the dangers that lay ahead. They recognized explicitly that formal declarations of war were going out of style, but they still required our legislature to declare war. They saw "how easy [it] would be to fabricate pretenses of approaching danger," but they said that this would demand "a combination between the executive and the legislative, in some scheme of usurpation." In other words, the Constitution would protect the American people against the misuse of military power by prohibiting the executive from going to war without congressional approval and prohibiting Congress from directing the war it had started. Even this was dangerous, they acknowledged, but it was the best that could be done.

For over a hundred and sixty years, the Constitution was followed. Congress declared the War of 1812, the Mexican War (even though there had been a somewhat provoked attack on our troops), the Spanish-American War, and both World Wars. In the period after the Second World War, things began to change. The development of Soviet atomic power, the military impotence of Western Europe, and the shock of Korea impelled us toward the creation of a large peacetime standing Army—the first in our history. It was seen that a sudden emergency might require instant action, with no time to go to Congress. This implied exception to Constitutional principle was based on the technological realities of atomic war, and it has been invoked only once—when we in-

tervened in the Dominican Republic. That intervention, however, was based on the claim that action within hours was necessary to protect the lives of Americans trapped between the contending forces—simply a traditional rescue operation. This claim may well have masked other motives, but American forces were not committed to combat, and support of the congressional leadership was sought and received within hours of the order to intervene and before the Marines had actually landed. In Korea in 1950, President Truman acted pursuant to a resolution of the Security Council, whose powers had been confirmed by the Senate when it consented to ratification of the United Nations Charter. In addition, Truman met with the congressional leadership of both parties before ordering combat forces into action, and received their unanimous support, along with that of the defeated Republican nominee, Thomas Dewey. Nor was there any doubt of the overwhelming public and congressional approval of his action—at least in the beginning. (The same week, the draft was extended with only four dissenting votes.) Still, the Republican candidates in 1952—including Senator Nixon—were critical of Truman's failure to get more formal congressional approval. So President Eisenhower sought, and received, congressional resolutions authorizing him to act in the Middle East and in the Formosa Strait. President Johnson himself asked for a resolution at the time of the Gulf of Tonkin incident, and it was the literal verbal scope of this resolution that was construed as authorizing all subsequent action in Vietnam. Yet such a construction was clearly an evasion, and it was at this point that the great Constitutional principle began to decay.

Now President Nixon has taken a giant step. Not only has he evaded the spirit of the Constitutional division of powers but he has deliberately ignored its plain meaning and intent. He has decided that he will go to war in Cambodia because he feels it necessary, no matter what Congress wants or what the people think. He has even implied that such willful disregard of the people and their elected representatives is an act of noble self-sacrifice, and has hinted that we should admire his courage in exceeding the limits of his Constitutional powers. The war in Cambodia was not an emergency. There was time enough to present the matter to Congress for a swift decision. Indeed, unceasing debate within the executive branch went on long enough to permit the Vietnamese to evacuate the threatened area. But the President did not follow the precedent of all his postwar predecessors by seeking assurance of congressional support, either formally or through meetings with the leadership. Rather, he made war by fiat. He has thus united in himself the powers that the Constitution divides and that have remained divided through our history. This comes from an Administration that proclaims its devotion to "strict construction."

This is not a technical, legal question. In import, it transcends the question of the wisdom of the war itself. The President, in effect, says, "I, and I alone, have decided to go to war in Cambodia." Where does he get that power? The Constitution denies it to him. He is not acting under the necessary of instant reaction. He has the power only because he asserts it, and because the armies follow. In a world in which conflicts are interrelated, there is no limit to the possibilities of his reasoning. He can invade Laos and Thailand, in both of which countries Communists are active. He can enter North Vietnam itself. He can attack China, which is both a sanctuary and a source of supply for the North Vietnamese. Nor is the Soviet Union exempt, since it, too, helps our adversaries in Vietnam. Such an assertion of authority is not among the prerogatives of a democratic leader in a republic of divided

powers. Our democracy is not an elective dictatorship. It is a government in which all elected officials have carefully limited powers. Suppose the President said he was going to change the tax laws, because the rates were unjust. What an outcry we would hear. Yet how trivial such an act would be, compared to concentrating the power over war and peace in a single office. The light of democracy depends on a common acceptance, by people and government, of the limits of power. What if, two years from now, the President should cancel the elections, on the ground of national need? Would it be easy to revolt against an armed force of three and a quarter million men if they remained obedient to their Commander-in-Chief? The possibility now seems absurd. But it illuminates the fact that our system works only because men have felt constrained by its assumptions; courts and legislatures have neither guns nor treasuries to enforce their will. Now one of the most basic of these liberating assumptions has been swept away. It must be restored.

The first duty of resistance lies with the legislative branch. For years, its members have been abdicating their responsibility, watching almost without protest while their authority was eroded and their mandates were evaded. They have allowed their power to be usurped. Now they are scorned and ignored, because the President is confident that they have neither the courage nor the will to challenge his action—that each, looking to his own interest, will allow the common cause to decay. If this is a true judgment and the President's act is not repudiated, then they will have denied the oath they took to uphold the Constitution. For Congress is the people's guardian. The authors of the Federalist Papers reassured the doubtful that "in the only instances in which the abuse of the executive authority was materially to be feared, the Chief Magistrate of the United States would . . . be subjected to the control of a branch of the legislative body. What more could be desired by an enlightened and reasonable people?" What more indeed?

The other possibility is the Supreme Court. In 1952, President Truman seized the steel mills, because, he claimed, a steel strike was endangering the war effort in Korea. The Supreme Court decided that he had no such power and ordered him to return the mills. That opinion concluded, "The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times. It would do no good to recall the historical events, the fears of power and the hopes for freedom that lay behind their choice. Such a review would but confirm our holding that this seizure order cannot stand." How much more does this invasion transgress those same hopes and fears.

There are many ways to bring the issue to the Supreme Court. The Senate itself might instruct its leaders to bring an action to restrain the President or the Secretary of Defense from ordering further combat in Cambodia. This would be an unprecedented response to an unprecedented act. The issue is Constitutional, and is thus within the jurisdiction of the federal court. And surely no individual or institution has greater standing to bring such an action than the very body whose powers have been taken away. Another route lies through the recent Massachusetts statute that makes it unlawful to require any resident of that state to serve outside the United States in an undeclared war. The Attorney General of Massachusetts has been instructed by the law to bring an action in the Supreme Court in order to prevent such service from being required. In relation to Vietnam, the passage of the bill was a symbolic action. In the case of the Cambodian invasion, the law could be a vehicle for resolving a momentous issue. Would the Court decide? No

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one can be sure. But it alone can decide, and that is its responsibility. Discussing the Supreme Court, Hamilton wrote that it must have the power to invalidate all acts by the other branches of government which are contrary to the Constitution. "To deny this," he said, "would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize but what they forbid."

The President has now declared himself superior to the people, to the legislature, and to the laws. We have lasted as a functioning democracy for almost two hundred years. The foundation of that democracy has been a vigilant regard for the principle that no one man or institution shall impose an unrestrained will on the decisions that shape the nation. If the American people now let this principle be eroded, while the capacity for resistance still remains, then we will deserve our fate. For we will have lost the ultimate protection of liberty, stronger than governments, more enduring than constitutions—the will of a people to be free.

#### THE LEASE GUARANTEE PROGRAM

Mr. SPARKMAN, Mr. President, the April 1970 issue of the Business Lawyer, published by the Corporation, Banking and Business Law Section of the American Bar Association, includes an article by Tim C. Ford, a member of the staff of the Senate Small Business Committee, on the lease guarantee program as it is administered by the Small Business Administration. This article resolves many of the questions raised in an article published in an earlier issue—July 1969—by Rosario Grillo, general counsel for Equitable Life Assurance Society. I was the original sponsor of title IV of the Small Business Investment Act of 1958—Public Law 89-117—and a subsequent amendment—Public Law 90-104—which extended this program to all small businesses so I find it particularly significant that the program has attracted the attention of mortgage lenders, lawyers, and insurance underwriters.

With lease guarantees the Small Business Administration in the presently tight money market provides small business with a valuable tool with which it can compete for prime space on main streets, in industrial parks and shopping centers. By insuring the rentals of small businesses SBA provides a new form of collateral which is of value not just to the landlord but to his financier. But more importantly it affords small businesses a chance to compete with big businesses which have acquired triple A credit ratings.

I commend to your attention the excellent analysis of the lease guarantee program as discussed by Mr. Ford in this article. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### ANOTHER VIEW OF THE SBA "LEASE" GUARANTEE PROGRAM

(By Tim C. Ford, member of the District of Columbia bar)

The Small Business Act,<sup>1</sup> which created the Small Business Administration (hereinafter

referred to as SBA) in 1953, provides that its primary mission is to foster free enterprise, encourage competition and help the economy to grow—and to do all of this specifically by helping small firms.

Since then, Congress, by enacting successive amendments to the Small Business Act and the Small Business Investment Act,<sup>2</sup> has expanded the Agency's responsibilities and programs so as to enable it to better meet the needs of the small business community.

One of the recurring problems of small businesses brought to the attention of SBA and Congress was their inability to secure commercial or industrial long-term leases of prime facilities. This handicap which small businesses face in competing for prime locations is a fact of life that has been well substantiated. For more than six years, Committees of the United States Congress who were deeply concerned about it conducted the hearings on the problem.<sup>3</sup>

During these public hearings, witnesses affirmed the national preference which Landlords hold for Tenants with backgrounds of large volume, a high credit rating, and a strong financial statement.<sup>4</sup> They testified that because of this preference on the part of Landlords, small business was often at a very great disadvantage in competing with larger firms for space in new developments, particularly in shopping centers and industrial parks.

To remedy this situation, Congress authorized the Lease Guarantee Program.<sup>5</sup> The initial legislation was limited to small firms that had been forced to relocate because of Federally-financed urban renewal, highway or other programs, or to small firms that could qualify for assistance under Title IV<sup>6</sup> of The Economic Opportunity Act, administered by SBA.

New legislation which became effective on January 9, 1968, extended this program to all small businesses that can qualify for assistance under SBA's regular business loan program.<sup>7</sup>

The Lease Guarantee Program is novel, without a precise precedent in the business world. Because of its novelty, the program has attracted the attention of the mortgage lenders, lawyers and insurance underwriters. Because of its potential benefit to small business on an expanded national scale, trade associations, developers and construction contractors constantly seek more information regarding its operation but really little has been written on the subject.<sup>8</sup>

A recent article entitled, "The Small Business Administration 'Lease Guarantee Program'" appeared in the July issue of this publication<sup>9</sup> which pinpointed some questions regarding the practical aspects of the program. Subsequent to publication of the article, the author and SBA discussed the constructive criticism and several modifications in the recently published Regulations are based on that discussion.

As presently structured, the program is based on the following premises:

#### PREMISE NO. 1

The program is intended to cater to the Lessee of an existing location or premises as well as the lessee of premises being developed. It is contemplated that guarantee applications for leases of the premises already in existence will be more numerous than those where the premises are to be developed. Where a Lessor of existing property may be negotiating directly with a lending institution for a mortgage loan, it is unlikely that his success will depend as much upon the basis of rents which are to be guaranteed as upon existing leases and the general appraisal of the premises by the Lender.

Whether the number of guarantees issued for existing property will be in the majority is debatable, but it is generally thought that the number of such cases will be sizeable. The program is not designed solely to suit the developer of new projects and his institutional lender. In those instances where the

relationship of the Lessor to a lending institution is direct and the premises are to be developed, as in the case of a shopping center or an industrial park, the benefits of the lease guarantee are intended to run primarily to the Lessee and not to the Lessor or his Assignee. Ultimately, it is the Lessee who pays the premium for the insurance policy issued to guarantee the rentals.

There is no provision in Title IV of the Small Business Investment Act, nor in the Regulations issued pursuant thereto, nor in the policy which purports to establish any privity of contract between the Guarantor of the lease and a Lessor's lender. A Lessor, who is developing a shopping center or industrial park, well might give consideration to the benefits that flow to his Lender if he adopts the program. The lease guarantee policy is assignable to a mortgage lender and as such is additional collateral.

In implementing the program, it appears that SBA has assumed that the principal concern of the Borrower or Lessor in assigning his policy to a lender or purchaser would be that his assignees or successors in interest are assured that they would receive the sums specified in the lease contract as rent over the term of the lease.

As has been noted, the assignment of the guarantee policy constitutes additional security to the Lender. However, SBA as Guarantor, under existing Regulations and policy provisions, does not assume all of the risks of a Lessor or of his assignee, whether the assignee be an institutional lender or a purchaser. There is presently no provision by which SBA could relieve the Lessor from his liability under the lease. The concept of a mortgage guaranty was rejected by the Committees of Congress when they were drafting the Lease Guarantee Program.<sup>10</sup> It was proposed at the Hearings<sup>11</sup> that the "traditional mortgage guarantee" be adopted instead of a lease guarantee program. But after consideration of that proposal,<sup>12</sup> the Congress enacted the law creating the lease guarantee program.

It is recognized that a "guarantee of the entire lease . . . would undoubtedly be much more attractive to landlords and lenders" as indicated in the Article,<sup>13</sup> but it is equally clear that SBA's authority to do so is lacking under the present statute. As SBA has interpreted the existing Act, the benefits are intended to flow primarily to small businesses.

#### PREMISE NO. 2

The program, by direction of the Congress, must be self-supporting. The premium schedule established by SBA MUST be sufficient to cover losses. But, at the same time, it must not be prohibitive for the small businesses who are the beneficiaries.

The Act itself provides three limitations or restrictions that the Administrator may require "in order to minimize the financial risk assumed under such guarantee"<sup>14</sup> and authorizes the Administrator to incorporate "such other provisions, not inconsistent with the purposes of this title, as the Administrator may in his discretion require."<sup>15</sup>

One restriction which affects the minimization of risks is that the program is limited to the guarantee of rent payments and does not cover any other obligations of the Lessee. The other risks which a Lessor undertakes when he signs a lease with a Lessee are not included in the guarantee. The assumption of these risks by the Lessor constitutes a kind of "co-insurance." In many types of casualty insurance, the provision for co-insurance is common. The protection it gives the Insurer against voluntary acts of the Insured is essential to the limitation of the Guarantor's or Insurer's liabilities.

In a new program such as that of Lease Guarantee, no statistical data existed on which actuarial schedules can be based in

Footnotes at end of article.



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the establishing of the schedule of premium rates. In order to comply with the Congressional mandate that the premium rates be established in accordance with "sound actuarial practices and procedures,"<sup>19</sup> SBA used numerous actuarial studies,<sup>20</sup> recognizing that it was not possible to establish firmly out of experience the parameters of risk involved in the Lease Guarantee Program. These parameters had to be based on such information as is available regarding the life expectancy or failure rates of businesses and other data not directly applicable but relevant.

A maximum premium charge of 2½ percent per annum of the rent guaranteed by SBA is fixed in the Act. This rate must be sufficient to make the program self-supporting. If additional risks were to be assumed by the Guarantor, the premium rates would have to exceed 2½ percent, and according to the best estimates obtainable, probably would be prohibitive for the many small businesses which the program is intended to assist. In brief, the premium required must represent a balance between the risks assumed by the Guarantor and the ability of the small business to pay.

#### PREMISE NO. 3

The third premise on which the Regulations and policy form are based is that the program is intended to benefit the small business Lessee, not the Lessor nor his institutional lender.

Nowhere in the Act does a reference to the Lessor's institutional mortgage lender appear. There are few references to Lessor and those establish his obligations rather than his benefits.

In a lease guarantee policy as presently issued there is no privity of contract between the Guarantor and the Lessor's institutional lender. It is questionable whether SBA by Regulations could create a relationship between the Guarantor and the assignee of the Lessor which does not exist between the Guarantor and Lessor.

This follows the basic legal premise that an assignee acquires no higher rights than the assignor held under the original contract.<sup>21</sup> Further, an assignee who acquires all the benefits of the policyholder, must assume all the responsibilities to which the original policyholder (Lessor) obligated himself when he received the policy. This is not only an equitable and fair arrangement but also one that is generally supported by the law.

#### PREMISE NO. 4

The last premise of this program is that private business including both casualty insurance companies and institutional lenders must be used, in terms of the Act, "to the greatest extent practicable."<sup>22</sup> The role of Government is to supplement rather than to supplant the operations of private business concerns. But, this mandate should not be interpreted to mean that no program should go forward without such participation of private companies.

This premise is spelled out in the Act. Section 401(a) provides: "any such guarantee may be made or effected either directly or in cooperation with any qualified surety company or qualified company through a participation agreement with such company."<sup>23</sup> It is further provided in Section 401(a)(1) that "No guarantee shall be issued by the Administration (1) if a guarantee meeting the requirements of the applicant is otherwise available on reasonable terms."

In the Article cited *infra*<sup>24</sup> there are suggested changes purportedly needed "to improve the endorsement" to the lease guarantee policy which are obviously intended to convey to the assignee on assignment by the Lessor all the benefits of lease guarantee

without any of the responsibilities. If these suggestions were adopted, the result would make an assignment of the guarantee policy a straightforward and unconditional guarantee of the rents to the assignee except for fraudulent misrepresentation by the assignee. Such a modification of the guarantee contract would obviously increase the risks of the Guarantor. But since the assignee is giving no consideration for such a modification of the contractual obligations of the Guarantor, it is doubtful whether these modifications would be held binding in case the Guarantor chose to challenge them in court.

As indicated above in connection with other items, there are means available to the assignee lender by which he can protect his interests as assignee and beneficiary of the guarantee policy. These means, however, depend upon the content of the mortgage contract or mortgage instrument. Since the Guarantor is not privy to this contract or instrument, he cannot dictate its terms. He can refuse to accept the responsibilities which the proposed conditions of the endorsement to the policy would impose upon him.

SBA appears to have made every effort to develop the Program in such a way as to maximize its conformity to current business policies and practices. The program will supplement rather than supplant the actions and operations of private business concerns whether bureaus, casualty insurance companies, or institutional lenders.

The various topics in the Article are examined serially in the light of these four basic premises. The Small Business Administration already has adopted some of the changes suggested in the Article. It seems reasonable to assume that it may adopt others. Those most concerned are hopeful that none will be adopted which are inconsistent with the four premises discussed above. To adopt them when they fail to agree with these premises would be a direct violation of the intent of Congress.

#### 1. FORM OF LEASE GUARANTEE

##### A. Preliminary observations

SBA's function is to help the small business concern, so its "guarantee" must run to the small business concern. Issuance of a mortgage guarantee would require new legislation by Congress. Accordingly, SBA (and guarantees reinsured by SBA, and all references herein to SBA as Guarantor encompass such participating surety or qualified companies) cannot issue a traditional mortgage guarantee but does issue instead a Lease Guarantee Insurance Policy.

The earlier Article observes that "the Landlord is looking for a Tenant who will be able to pay the rent and who will be an asset to the property in his operations. The lender is looking for a secure loan; one in which there is a sufficient and secure rent flow from the leases to cover the mortgage charges and other expenses. The lender will accordingly desire that the lease, and, of course, the guarantee of the rental payments, be collaterally assigned to it, and that no act by the Landlord which the lender is powerless to control will destroy the guarantee."<sup>25</sup>

However, the SBA Administrator is authorized by the Act to "guarantee the payment of rentals under leases of commercial and industrial property entered into by small business concerns . . ."<sup>26</sup> There are some provisions in the Act that must be complied with in a lease to be eligible for a guarantee and there are other provisions that set forth the actions which "the Lessor shall" take in order to qualify for payment of a claim. Nowhere in the Act is there any reference to a lender. Under the Regulations the lender can become a beneficiary of the guarantee only by assignment from the Lessor but the Lessor's negligence may destroy the guarantee.

##### B. Change in tenant, his space, or in lease, etc.

The Regulations and Insurance policy do not state that any change of Tenant terminates the guarantee. However, an assignment by the Tenant with the consent of the Lessor, as required by the lease, shall terminate the guarantee if the Lessor's consent is given without notice to and consent of the Guarantor.

The purpose of these provisions in the Regulations is to establish the limits of the Guarantor's risks. Obviously, an assignment of the Lessee's interests can very greatly affect the risks of the Guarantor. If such an assignment could be made without the Guarantor's consent and the benefits of the guarantee be retained, a Landlord and Tenant who were having difficulty might make such an assignment, or agree to such an assignment, and very greatly increase the risks of the Guarantor. After all, one of the elements of risk to a Guarantor is the Tenant.

SBA's short track record does not indicate that these controls create a "potential undue servicing problem, requiring constantly knocking on SBA's door on routine operating matters."<sup>27</sup>

SBA would not cancel the policy in case of a change in Tenant which occurs as a result of death; or in a partnership Tenant, on change in partners by death as these changes could not be controlled by the tenant.

The recently published revised Regulations do provide that the interest of the lessee in the leased premises shall not be voluntarily assigned or transferred by corporate merger or capital stock transfer to a new lessee without the prior written consent of the lessor and insurer.<sup>28</sup>

It is my understanding that SBA would not be adverse to an amendment to the Regulations to provide that minor changes such as redecorating or moving partitions in the premises would not necessitate the consent of the Guarantor. In fact, SBA has already accepted some of the suggestions included in the Article including those regarding limitations or consent in the case of the subletting of a minor portion of the premises when such subletting is common practice in the trade.

SBA has indicated that there are no objections to making the guarantee indefeasible in the hands of an assignee because of actions on the part of the assignor or Lessor after the assignment has been made and the Guarantor has been notified of the assignment. But, it should be noted that the assignment carries to the assignee the obligations which the guarantee places upon the Lessor for protecting the Guarantor against risks against which he is protected by the Lessor before assignment. Otherwise, the premium schedule would have to be revised to compensate for the additional risk assumed by the Guarantor.

##### C. Breach of lease by landlord

This is a difficult issue. It obviously is impossible to provide that the Landlord shall receive payment of rents when he is in default and the Tenant has refused to pay the rent because the Landlord has failed to perform his obligations under the lease. No one would hold, on the other hand, that the Guarantor should be exonerated from rent liability for three months because the Landlord neglected a minor repair. This gray area continues to receive study by SBA and participating companies.

##### D. Representations and concealment

SBA has advised that the observation in the Article that where the guarantee policy is in the hands of an innocent assignee, the guarantee should be indefeasible except for concealment or misrepresentation on the part of the assignee, is sound.

##### E. Damage to premises

Apparently, the purpose of the proposal in the Article concerning the condition in the policy regarding damage to premises is in-

<sup>19</sup>Footnotes at end of article.